

**CITY OF SHINNSTON**

**Sewer Revenue Bonds, Series 2010 A  
(United States Department of Agriculture)**

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**CITY OF SHINNSTON**  
**Sewer Revenue Bonds, Series 2010 A**  
**(United States Department of Agriculture)**

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**CITY OF SHINNSTON**

**BOND ORDINANCE**

ORDINANCE AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF CERTAIN ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO THE EXISTING PUBLIC SEWERAGE FACILITIES OF THE CITY OF SHINNSTON, AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED THEREOF, THROUGH THE ISSUANCE BY THE TOWN OF NOT MORE THAN \$3,200,000 IN AGGREGATE PRINCIPAL AMOUNT OF SEWER REVENUE BONDS, SERIES 2010 A (UNITED STATES DEPARTMENT OF AGRICULTURE) IN ONE OR MORE SERIES; DEFINING AND PRESCRIBING THE TERMS AND PROVISIONS OF THE BONDS; PROVIDING GENERALLY FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE HOLDER OF THE BONDS; AND PROVIDING WHEN THIS ORDINANCE SHALL TAKE EFFECT.

BE IT ORDAINED AND ENACTED BY THE COUNCIL OF THE CITY OF SHINNSTON:

**ARTICLE I**

**STATUTORY AUTHORITY, FINDINGS  
AND DEFINITIONS**

Section 1.01. Authority for this Ordinance. This Ordinance is adopted and enacted pursuant to the provisions of Chapter 16, Article 13 of the West Virginia Code of 1931, as amended (the "Act"), and other applicable provisions of law. The City of Shinnston (the "Issuer") is a duly created and validly existing municipal corporation and political subdivision of the State of West Virginia in Harrison County of said State.

Section 1.02. Findings and Determinations. It is hereby found, determined and declared as follows:

A. The Issuer currently owns and operates a public sewerage system and desires to acquire, construct and operate certain additional public sewerage facilities consisting of additions, betterments and improvements to such existing sewerage facilities, with all appurtenant facilities.

B. It is deemed essential, convenient and desirable for the health, welfare, safety, advantage and convenience of the inhabitants of the Issuer and, accordingly, it is hereby ordered, that there be acquired and constructed certain additions, betterments and improvements to the existing sewerage system of the Issuer, consisting of sewer system improvements to provide reduction of inflow and infiltration (the "Project"), particularly described in and according to the plans and specifications prepared by the Consulting Engineer and heretofore filed in the office of the Clerk of the Issuer. The existing sewerage facilities of the Issuer, together with the Project and any further additions, betterments

and improvements, are herein called the "System". The acquisition and construction of the Project and the financing hereby authorized and provided for are public purposes of the Issuer and are ordered for the purpose of meeting and serving public convenience and necessity.

C. The estimated revenues to be derived in each year from the operation of the System after completion of the Project will be sufficient to pay all costs of operation and maintenance of the System, the principal of and interest on the Series 2010 A Bonds and the Prior Bonds (as hereinafter defined) and all debt service, reserve fund and other payments provided for herein and in the Prior Ordinance,

D. The estimated maximum cost of the acquisition and construction of the Project is \$4,766,000 which of which approximately \$2,700,000 will be obtained from the proceeds of sale of the Bonds herein authorized, \$1,200,000 will be obtained as a grant from the Purchaser and approximately \$866,000 will be obtained from a grant from the United States Environmental Protection Agency.

E. It is necessary for the Issuer to issue its Sewer Revenue Bonds Series 2010 A (United States Department of Agriculture) in one or more series, in the aggregate principal amount of not more than \$3,200,000 (the "Series 2010 A Bonds"), to finance a portion of the cost of acquisition and construction of the Project. The cost of such acquisition and construction shall be deemed to include, without being limited to, the acquisition and construction of the Project; the acquisition of all property rights, easements and franchises deemed necessary or convenient therefor and for the improvements and extensions thereto; interest on the Series 2010 A Bonds prior to and during acquisition and construction, and for a period not exceeding six months after completion of such acquisition or construction, of the Project; engineering, fiscal agents and legal expenses; expenses for estimates of costs and revenues; expenses for plans, specifications and surveys; other expenses necessary or incident to determining the feasibility or practicability of the Project, administrative expense, and such other expenses as may be necessary or incidental to the acquisition and construction of the Project and the financing authorized hereby; provided that, reimbursement to the Issuer for any amounts expended by it for allowable costs prior to the issuance of the Series 2010 A Bonds or the repayment of indebtedness incurred by the Issuer for such purposes shall be deemed Costs of the Project.

F. The period of usefulness of the System, as herein defined, after completion of the Project is not less than 40 years.

G. The Issuer has outstanding its Sewer Revenue Bonds, Series 1990 A (West Virginia Water Development Authority), dated March 29, 1990, issued in the original aggregate principal amount of \$2,245,223 (the "Series 1990 A Bonds"), and Sewer Revenue Bonds, Series 1990 B (West Virginia Water Development Authority), dated March 29, 1990, issued in the original aggregate principal amount of \$104,777 (the "Series 1990 B Bonds"), (collectively, the "Prior Bonds"). The Prior Bonds are payable from and secured by a lien on the Net Revenues (as hereinafter defined) of the System.

The Series 2010 A Bonds shall be issued on a parity with the Series 1990 A Bonds and senior and prior to the Series 1990 B Bonds with respect to liens, pledge and source of and security for payment and in all other respects.

Prior to the issuance of the Series 2010 A Bonds, the Issuer will obtain (i) a certificate of an Independent Certified Public Accountant stating that the coverage and parity tests of the Prior Bonds are met; (ii) the written consent of the Holders of the Series 1990 A Bonds to the issuance of the Series

2010 A Bonds on a parity with the Series 1990 A Bonds; and (iii) the written consent of the Holders of the Series 1990 B Bonds to the issuance of the Series 2010 A Bonds on a senior and prior basis to the series 1990 B Bonds. Other than the Prior Bonds, there are no other outstanding bonds or obligations of the Issuer which are secured by revenues or assets of the System.

H. It is in the best interest of the Issuer that the Series 2010 A Bonds be sold to the Purchaser, pursuant to the terms and provisions of the Letter of Conditions dated July 28, 2008, and any amendments, thereto (collectively, the "Letter of Conditions").

I. The Issuer has complied with all requirements of law relating to the authorization of the acquisition and construction of the Project, the operation of the System, including, without limitation, the imposition of rates and charges, and the issuance of the Series 2010 A Bonds, or will have so complied prior to issuance of the Series 2010 A Bonds, including, among other things and without limitation, obtaining a certificate of convenience and necessity and approval of the financing and necessary user rates and charges from the Public Service Commission of West Virginia by final order, the time for rehearing and appeal of which have expired or shall have been duly waived or otherwise provided for.

Section 1.03. Bond Legislation Constitutes Contract. In consideration of the acceptance of the Series 2010 A Bonds by those who shall be the Registered Owner of the same from time to time, this Ordinance (the "Bond Legislation") shall be deemed to be and shall constitute a contract between the Issuer and such Registered Owner, and the covenants and agreements set forth herein to be performed by the Issuer shall be for the benefit, protection and security of the Registered Owner of the Series 2010 A Bonds.

Section 1.04. Definitions. The following terms shall have the following meanings herein unless the text otherwise expressly requires:

"Act" means Chapter 16, Article 13 of the West Virginia Code of 1931, as amended.

"Bond Legislation" or "Ordinance" means this Ordinance and all ordinances, orders and resolutions supplemental hereto or amendatory hereof.

"Bond Registrar" or "Registrar" means the Issuer, which shall usually so act by its Clerk.

"Bonds" means collectively, the Series 2010 A Bonds, the Prior Bonds and where appropriate, any bonds on a parity herewith subsequently authorized to be issued hereunder or by another ordinance of the Issuer.

"Closing Date" means the date upon which there is an exchange of the Series 2010 A Bonds for the proceeds, or at least a de minimus portion, thereof representing the purchase price of the Series 2010 A Bonds from the Purchaser.

"Commission" means the West Virginia Municipal Bond Commission or any other agency of the State of West Virginia that succeeds to the functions of the Commission.

"Consulting Engineer" means Greenhorn & O'Mara, Clarksburg, West Virginia, or any qualified engineer or firm of engineers which shall at any time hereafter be retained by the Issuer as Consulting Engineer for the System.

"Depository Bank" means a bank or trust company which is a member of FDIC (herein defined), and its successors and assigns as designated in the Supplemental Resolution.

"Facilities" or "sewerage facilities" means all the tangible properties of the System and also any tangible properties which may hereafter be added to the System by additions, betterments, extensions and improvements thereto and properties, furniture, fixtures or equipment therefor, hereafter at any time constructed or acquired.

"FDIC" means the Federal Deposit Insurance Corporation.

"Fiscal Year" means each 12-month period beginning on July 1 and ending on the succeeding June 30.

"Governing Body" or "Council" means the Council of the Issuer.

"Government Obligations" means direct obligations of, or obligations the payment of the principal of and interest on which are guaranteed by, the United States of America.

"Grant" means any grant monies committed to the Project.

"Herein" or "herein" means in this Bond Legislation.

"Issuer" or "Borrower" means the City of Shinnston, a municipal corporation and political subdivision of the State of West Virginia, in Harrison County, West Virginia, and includes the Governing Body.

"Letter of Conditions" means, collectively, the Letter of Conditions of the Purchaser dated July 28, 2008, and all amendments thereto, if any.

"Mayor" means the Mayor of the Issuer.

"Minimum Reserve" means, as of any date of calculation, the maximum amount of principal and interest which will become due on the Series 2010 A Bonds in the then current or any succeeding year.

"Net Revenues" means the balance of the Gross Revenues, as defined below, remaining after deduction only of Operating Expenses, as defined below.

"Operating Expenses" means the current expenses, paid or accrued, of operation and maintenance of the Project and the System and its facilities, and includes, without limiting the generality of the foregoing, insurance premiums, materials and supplies, pumping costs, salaries, wages and administrative expenses of the Issuer relating and chargeable solely to the Project and the System, the accumulation of appropriate reserves for charges not annually recurrent but which are such as may reasonably be expected to be incurred, and such other reasonable operating costs as are normally and

regularly included under recognized accounting principles and retention of a sum not to exceed one-sixth of the budgeted Operating Expenses stated above for the current year as working capital, and language herein requiring payment of Operating Expenses means also retention of not to exceed such sum as working capital, provided that all monthly amortization payments upon the Series 2010 A Bonds and into the respective reserve accounts and the Renewal and Replacement Fund have been made to the last monthly date prior to the date of such retention.

"Ordinances" means, the Bond Legislation.

"Prior Bonds" means the Series 1990 A Bonds and the Series 1990 B Bonds.

"Prior Ordinance" means the Ordinance of the Issuer authorizing the Prior Bonds.

"Project" shall have the meaning stated in Section 1.02B above.

"Purchaser" or "Government" means United States Department of Agriculture, Rural Utilities Service, and any successor thereof, acting for and on behalf of the United States of America.

"Qualified Investments" means and includes any of the following, to the extent such investments are permitted by law:

(a) Government Obligations;

(b) Government Obligations which have been stripped of their unmatured interest coupons, interest coupons stripped from Government Obligations, and receipts or certificates evidencing payments from Government Obligations or interest coupons stripped from Government Obligations;

(c) Bonds, debentures, notes or other evidences of indebtedness issued by any of the following agencies: Banks for Cooperatives; Federal Intermediate Credit Banks; Federal Home Loan Bank System; Export-Import Bank of the United States; Federal Land Banks; Government National Mortgage Association; Tennessee Valley Authority; or Washington Metropolitan Area Transit Authority;

(d) Any bond, debenture, note, participation certificate or other similar obligations issued by the Federal National Mortgage Association to the extent such obligation is guaranteed by the Government National Mortgage Association or issued by any other federal agency and backed by the full faith and credit of the United States of America;

(e) Time accounts (including accounts evidenced by time certificates of deposit, time deposits or other similar banking arrangements) which, to the extent not insured by the FDIC (hereinbefore defined) or Federal Savings and Loan Insurance

Corporation, shall be secured by a pledge of Government Obligations, provided, that said Government Obligations pledged either must mature as nearly as practicable coincident with the maturity of said time accounts or must be replaced or increased so that the market value thereof is always at least equal to the principal amount of said time accounts;

(f) Money market funds or similar funds whose only assets are investments of the type described in paragraphs (a) through (e) above;

(g) Repurchase agreements, fully secured by investments of the types described in paragraphs (a) through (e) above, with banks or national banking associations which are members of FDIC or with government bond dealers recognized as primary dealers by the Federal Reserve Bank of New York, provided, that said investments securing said repurchase agreements either must mature as nearly as practicable coincident with the maturity of said repurchase agreements or must be replaced or increased so that the market value thereof is always at least equal to the principal amount of said repurchase agreements, and provided further that the holder of such repurchase agreement shall have a prior perfected security interest in the collateral therefor, must have (or its agent must have) possession of such collateral, and such collateral must be free of all claims by third parties;

(h) The West Virginia "consolidated fund" managed by the West Virginia Board of Treasury Investments pursuant to Chapter 12, Article 6C of the West Virginia Code of 1931, as amended; and

(i) Obligations of States or political subdivisions or agencies thereof, the interest on which is excluded from gross income for federal income tax purposes, and which are rated at least "A" by Moody's Investors Service or Standard & Poor's Corporation.

"Recorder" means the Recorder of the Issuer.

"Registered Owner," "Bondholder," "Holder of the Bond" or any similar term means any person who shall be the registered owner of the Series 2010 A Bonds.

"Reserve Funds" means, the respective reserve funds for the Series 2010 A Bonds and the Prior Bonds.

"Revenues" or "Gross Revenues" means all rates, rents, fees, charges or other income received by the Issuer, or accrued to the Issuer, or any department, board, agency or instrumentality thereof in control of the management and operation of the System, from the operation of the System, and all parts thereof, all as calculated in accordance with sound accounting practices.

"Series 1990 A Bonds" means the Issuer's Sewer Revenue Bonds, Series 1990 A (West Virginia Water Development Authority), dated March 29, 1990, issued in the original aggregate principal amount of \$2,245,223.

"Series 1990 B Bonds" means the Issuer's Sewer Revenue Bonds, Series 1990 B (West Virginia Water Development Authority), dated March 29, 1990, issued in the original aggregate principal amount of \$104,777.

"Series 2010 A Bonds" means the Sewer Revenue Bonds, (United States Department of Agriculture) issued in one or more series authorized by this Ordinance.

"State" means the State of West Virginia.

"Supplemental Resolution" means any resolution, ordinance or order of the Issuer supplementing or amending this Ordinance and, when preceded with the article "the", refers specifically to the supplemental resolution authorizing the sale of the Series 2010 A Bonds; provided, that any matter intended by this Ordinance to be included in the Supplemental Resolution with respect to the Series 2010 A Bonds, and not so included may be included in another supplemental resolution.

"System" means the complete Sewerage system of the Issuer and all Sewerage facilities owned by the Issuer and all facilities and other property of every nature, real or personal, now or hereafter owned, held or used in connection with the sewerage systems, including the Project, and any and all additions, betterments, improvements, properties or other facilities at any time acquired or constructed for the Sewerage system from any source whatsoever.

"Tap Fees" means the fees, if any, paid by prospective customers of the System in order to connect thereto.

Words importing singular number shall include the plural number in each case and vice versa; words importing persons shall include firms and corporations; and words importing the masculine feminine or neutral gender shall include any other gender; and any requirement for execution or attestation of the Series 2010 A Bonds or any certificate or other document by the Mayor or the Clerk shall mean that such Series 2010 A Bonds, certificate or other documents may be executed or attested by an Acting Mayor or Acting Clerk.

## ARTICLE II

### **AUTHORIZATION OF ACQUISITION AND CONSTRUCTION OF THE PROJECT**

Section 2.01. Authorization of Acquisition and Construction of the Project. There is hereby authorized and ordered the acquisition and construction of the Project, at an estimated cost not to exceed \$4,766,000, in accordance with the plans and specifications which have been prepared by the Consulting Engineers, heretofore filed in the office of the Governing Body. The proceeds of the Series 2010 A Bonds hereby authorized shall be applied as provided in Article IV hereof.

The estimated maximum cost of the acquisition and construction of the Project is \$4,766,000 which of which approximately \$2,700,000 will be obtained from the proceeds of sale of the Bonds herein authorized, \$1,200,000 will be obtained as a grant from the Purchaser; and approximately \$866,000 will be obtained from a grant from the United States Environmental Protection Agency.

### ARTICLE III

#### **AUTHORIZATION, TERMS, EXECUTION, REGISTRATION AND ISSUE OF BONDS**

Section 3.01. Authorization of Bonds. Subject and pursuant to the provisions of this Bond Legislation, the Series 2010 A Bonds of the Issuer, to be known as "Sewer Revenue Bonds, Series 2010 A (United States Department of Agriculture)," are hereby authorized to be issued in the principal amount of not to exceed \$3,200,000 for the purpose of permanently financing a portion of the cost of the acquisition and construction of the Project.

Section 3.02. Description of Bonds. The Series 2010 A Bonds shall be issued in one or more series, only as a fully registered Bond in an aggregate principal amount to be prescribed in the Supplemental Resolution, and shall be dated on the date of delivery thereof. The Series 2010 A Bonds shall bear interest from date of delivery, payable monthly at the rate not to exceed 3.625% per annum, which interest rate shall be prescribed in the Supplemental Resolution and shall be sold for the par value thereof.

The Series 2010 A Bonds shall be subject to prepayment of scheduled monthly installments, or any portion thereof, at the option of the Issuer, and shall be payable as provided in the Bond form hereinafter set forth.

Section 3.03. Negotiability, Registration, Transfer and Exchange of Bonds. The Series 2010 A Bonds shall be and have all the qualities and incidents of a negotiable instrument under the Uniform Commercial Code of the State of West Virginia, but the Series 2010 A Bonds, and the right to the principal of and stated interest on the Series 2010 A Bonds, may only be transferred by transfer of the registration thereof upon the books required to be kept pursuant to Section 3.04 hereof, by the party in whose name it is registered, in person or by attorney duly authorized in writing, upon surrender of the Series 2010 A Bonds for cancellation, accompanied by delivery of a written instrument of transfer, duly executed in a form acceptable to the Bond Registrar.

Whenever the Series 2010 A Bonds shall be surrendered for registration of transfer, the Issuer shall execute and deliver a new Bond or Bonds in authorized denominations, for a like aggregate principal amount. The Bond Registrar shall require the payment by the new owner requesting such transfer of any tax or other governmental charge required to be paid with respect to such transfer, but the Issuer shall pay any other expenses incurred by the Bond Registrar with respect to such transfer.

No registration of transfer of the Series 2010 A Bonds shall be permitted to be made after the 15th day next preceding any installment payment date on the Series 2010 A Bonds.

Section 3.04. Bond Registrar. The Issuer shall be the Bond Registrar and will keep or cause to be kept at its office by its agent, sufficient books for the registration and transfer of the Series 2010 A Bonds, and, upon presentation for such purpose, the Bond Registrar shall, under such

reasonable regulations as it may prescribe, register the Series 2010 A Bonds initially issued pursuant hereto and register the transfer, or cause to be registered by its agent, on such books, the transfer of the Series 2010 A Bonds as hereinbefore provided.

The Bond Registrar shall accept the Series 2010 A Bonds for registration of transfer only if ownership thereof is to be registered in the name of the Purchaser, an individual (including joint ownership), a corporation, a partnership or a trust, and only upon receipt of the social security number of each individual, the federal employer identification number of each corporation or partnership or the social security numbers of the settlor and beneficiaries of each trust and the federal employer identification number and date of each trust and the name of the trustee of each trust, and/or such other identifying number and information as may be required by law. The Series 2010 A Bonds shall initially be fully registered as to both principal and interest in the name of the United States of America. So long as the Series 2010 A Bonds shall be registered in the name of the United States of America, the address of the United States of America for registration purposes shall be National Finance Office, St. Louis, Missouri 63103, or such other address as shall be stated in writing to the Issuer by the United States of America.

Section 3.05. Execution of Bonds. The Series 2010 A Bonds shall be executed in the name of the Issuer by the Mayor and the seal of the Issuer shall be affixed thereto and attested by the Clerk. In case any one or more of the officers who shall have signed or sealed the Series 2010 A Bonds shall cease to be such officer of the Issuer before the Series 2010 A Bonds so signed and sealed has been actually sold and delivered, such Bond may nevertheless be sold and delivered as herein provided and may be issued as if the person who signed or sealed such Series 2010 A Bonds had not ceased to hold such office. The Series 2010 A Bonds may be signed and sealed on behalf of the Issuer by such person as at the actual time of the execution of such Series 2010 A Bonds shall hold the proper office in the Issuer, although at the date of such Bond such person may not have held such office or may not have been so authorized.

Section 3.06. Bonds Mutilated, Destroyed, Stolen or Lost. In case the Series 2010 A Bonds shall become mutilated or be destroyed, stolen or lost, the Issuer may, in its discretion, issue and deliver a new Bond of like tenor as the Bond so mutilated, destroyed, stolen or lost, in exchange and substitution for such mutilated Bond or in lieu of and substitution for the Bond destroyed, stolen or lost, and upon the holder's furnishing the Issuer proof of his ownership thereof and complying with such other reasonable regulations and conditions as the Issuer may require. The Series 2010 A Bonds so surrendered shall be canceled and held for the account of the Issuer. If the Series 2010 A Bonds shall have matured or be about to mature, instead of issuing a substitute Series 2010 A Bonds the Issuer may pay the same, and, if such Series 2010 A Bonds be destroyed, stolen or lost, without surrender thereof.

Section 3.07. Bonds Secured by Pledge of Net Revenues. The payment of the debt service of the Series 2010 A Bonds shall be secured forthwith by a first lien on the Net Revenues derived from the System, in addition to the statutory mortgage lien on the System hereinafter provided for as to the Series 2010 A Bonds on a parity with the Series 1990 A Bonds and senior and prior to the Series 1990 B Bonds. The Net Revenues derived from the System, in an amount sufficient to pay the principal of and interest on the Series 2010 A Bonds and the Prior Bonds and to make the payments as hereinafter provided, are hereby irrevocably pledged to the payment of the principal of and interest on the Series 2010 A Bonds as the same becomes due.

Section 3.08. Form of Bonds. Subject to the provisions hereof, the text of the Series 2010 A Bonds and the other details thereof shall be of substantially the following tenor, with such omissions, insertions and variations as may be authorized or permitted hereby or by any supplemental resolution enacted after the date of enactment hereof and prior to the issuance thereof:

(FORM OF SERIES 2010 A BOND)

CITY OF SHINNSTON

SEWER REVENUE BONDS, SERIES 2010 A  
(UNITED STATES DEPARTMENT OF AGRICULTURE)

\$ \_\_\_\_\_

No. AR-1

Date: \_\_\_\_\_, 2010

FOR VALUE RECEIVED, the CITY OF SHINNSTON (herein called "Borrower") promises to pay to the order of the United States of America (the "Government"), or its registered assigns, at its National Finance Office, St. Louis, Missouri 63103, or at such other place as the Government may hereafter designate in writing, the principal sum of \_\_\_\_\_ DOLLARS (\$ \_\_\_\_\_), plus interest on the unpaid principal balance at the rate of \_\_\_\_% per annum. The said principal and interest shall be paid in the following installments on the following dates: Monthly installments of interest only, commencing 30 days following delivery of this Bond and continuing on the corresponding day of each month for the first twenty-four months after the date hereof, and \$ \_\_\_\_\_, covering principal and interest, thereafter on said corresponding day of each month, except that the final installment shall be paid at the end of 40 years from the date of this Bond, in the sum of the unpaid principal and interest due on the date thereof, and except that prepayments may be made as provided herein below. The consideration herefor shall support any agreement modifying the foregoing schedule of payments.

If the total amount of the loan is not advanced at the time of loan closing, the loan shall be advanced to Borrower as requested by Borrower and approved by the Government and interest shall accrue on the amount of each advance from its actual date as shown on the Record of Advances attached hereto as a part hereof.

Every payment made on any indebtedness evidenced by this Bond shall be applied first to interest computed to the effective date of the payment and then to principal.

Prepayments of scheduled installments, or any portion thereof, may be made at any time at the option of Borrower. Refunds and extra payments, as defined in the regulations of the Government according to the source of funds involved, shall, after payment of interest, be applied to the installments last to become due under this Bond and shall not affect the obligation of Borrower to pay the remaining installments as scheduled herein.

If the Government at any time assigns this Bond and insures the payment thereof, Borrower shall continue to make payments to the Government as collection agent for the holder.

While this Bond is held by an insured lender, prepayments as above authorized made by Borrower may, at the option of the Government, be remitted by the Government to the holder promptly or, except for final payment, be retained by the Government and remitted to the holder on either a

calendar quarter basis or an annual installment due date basis. The effective date of every payment made by Borrower, except payments retained and remitted by the Government on an annual installment due date basis, shall be the date of the United States Treasury check by which the Government remits the payment to the holder. The effective date of any prepayment retained and remitted by the Government to the holder on an annual installment due date basis shall be the date of the prepayment by Borrower and the Government will pay the interest to which the holder is entitled accruing between the effective date of any such prepayment and the date of the Treasury check to the holder.

Any amount advanced or expended by the Government for the collection hereof or to preserve or protect any security herefor, or otherwise under the terms of any security or other instrument executed in connection with the loan evidenced hereby, at the option of the Government shall become a part of and bear interest at the same rate as the principal of the debt evidenced hereby and be immediately due and payable by Borrower to the Government without demand. Borrower agrees to use the loan evidenced hereby solely for purposes authorized by the Government.

Borrower hereby certifies that it is unable to obtain sufficient credit elsewhere to finance its actual needs at reasonable rates and terms, taking into consideration prevailing private and cooperative rates and terms in or near its community for loans for similar purposes and periods of time.

This Bond, together with any additional bonds ranking on a parity herewith which may be issued and outstanding for the purpose of providing funds for financing costs of acquisition and construction of additions, betterments and improvements to the Sewerage system (the "System") of Borrower, is payable solely from and secured by the revenues to be derived from the operation of the System. This Bond does not in any manner constitute an indebtedness of the Borrower within the meaning of any constitutional or statutory provision or limitation, nor shall the Borrower be obligated to pay the same or the interest thereon except from the special fund so provided.

Registration of this Bond is transferable by the registered owner hereof in person or by his, her or its attorney duly authorized in writing, at the office of Borrower, as Bond Registrar, but only in the manner, subject to the limitations and upon payment of the charges, if any, provided in the herein defined Ordinance, and upon surrender and cancellation of this Bond. Upon such transfer a new Bond or Bonds, of authorized denomination or denominations, for the like principal amount, will be issued to the transferee in exchange herefor.

This Bond, under the provisions of the Act, is and has all the qualities and incidents of a negotiable instrument under the Uniform Commercial Code of the State of West Virginia, but may only be transferred by transfer of registration hereof with the Bond Registrar.

This Bond has been issued under and in full compliance with the Constitution and statutes of the State of West Virginia, including, among others, Chapter 16, Article 13 of the West Virginia Code of 1931, as amended (herein called the "Act"), an Ordinance of Borrower duly enacted on \_\_\_\_\_, 2010, and a Supplemental Resolution duly adopted by the Issuer on \_\_\_\_\_, 2010 authorizing issuance of this Bond (collectively, the "Ordinance").

If at any time it shall appear to the Government that Borrower may be able to obtain a loan from a responsible cooperative or private credit source at reasonable rates and terms for loans for similar purposes and periods of time, Borrower will, at the Government's request, apply for and accept such loan in sufficient amount to repay the Government.

This Bond is given as evidence of a loan to Borrower made or insured by the Government pursuant to the Consolidated Farm and Rural Development Act of 1965, as amended. This Bond shall be subject to the present regulations of the Government and to its future regulations not inconsistent with the express provisions hereof.

THIS BOND IS ISSUED ON A PARITY WITH RESPECT TO LIENS, PLEDGE AND SOURCE OF AND SECURITY FOR PAYMENT, AND IN ALL RESPECTS, WITH THE ISSUER'S SEWER REVENUE BONDS, SERIES 1990 A (WEST VIRGINIA WATER DEVELOPMENT AUTHORITY), DATED MARCH 29, 1990, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$2,245,223 (THE "SERIES 1990 A BONDS"); AND SENIOR AND PRIOR WITH RESPECT TO LIENS, PLEDGE AND SOURCE OF AND SECURITY FOR PAYMENT, AND IN ALL RESPECTS TO THE ISSUER'S SEWER REVENUE BONDS, SERIES 1990 B (WEST VIRGINIA WATER DEVELOPMENT AUTHORITY), DATED MARCH 29, 1990, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$104,777 (THE "SERIES 1990 B BONDS")

In accordance with the requirements of the United States Department of Agriculture, the Bonds will be in default should any proceeds of the Bonds be used for a purpose that will contribute to excessive erosion of highly erodible land or to the conversion of wetlands to produce an agricultural commodity.

[Remainder of Page Intentionally Blank]

IN WITNESS WHEREOF, the CITY OF SHINNSTON has caused this Bond to be executed by its Mayor and its corporate seal to be hereunto affixed or imprinted hereon and attested by its Clerk, all as of the date hereinabove written.

CITY OF SHINNSTON

[CORPORATE SEAL]

\_\_\_\_\_  
Mayor

40 Main Street  
Shinnston, West Virginia 26431

ATTEST:

\_\_\_\_\_  
Clerk

EXHIBIT A

RECORD OF ADVANCES

<u>AMOUNT</u>	<u>DATE</u>	<u>AMOUNT</u>	<u>DATE</u>
(1) \$		(19)	
(2)		(20)	
(3)		(21)	
(4)		(22)	
(5)		(23)	
(6)		(24)	
(7)		(25)	
(8)		(26)	
(9)		(27)	
(10)		(28)	
(11)		(29)	
(12)		(30)	
(13)		(31)	
(14)		(32)	
(15)		(33)	
(16)		(34)	
(17)		(35)	
(18)		(36)	

TOTAL \$ \_\_\_\_\_

(Form of Assignment)

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned sells, assigns and transfers to  
\_\_\_\_\_  
the within Bond and does hereby irrevocably constitute and appoint \_\_\_\_\_, Attorney  
to transfer the said Bond on the books kept for registration of the within Bond of the said Borrower with  
full power of substitution in the premises.

Dated: \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_

In presence of:

\_\_\_\_\_

ARTICLE IV

**SYSTEM REVENUES AND APPLICATION THEREOF;  
DISPOSITION OF BOND PROCEEDS; FUNDS AND ACCOUNTS**

Section 4.01. Establishment of Funds and Accounts with Depository Bank. The following special funds or accounts are created (or continued if previously established by Prior Ordinance) and established with, and shall be held by, the Depository Bank separate and apart from all other funds or accounts of the Depository Bank and from each other:

- (1) Revenue Fund (established by Prior Ordinance and continued hereby);
- (2) Renewal and Replacement Fund (established by Prior Ordinance and continued hereby); and
- (3) Project Construction Account.

Section 4.02. Establishment of Funds and Accounts with Commission. The following special funds or accounts are hereby created (or continued if previously established by Prior Ordinance) with and shall be held by, the Commission separate and apart from all other funds or accounts of the Commission and the Issuer and from each other:

- (1) Series 1990 A Bonds Sinking Fund (established by Prior Ordinance and continued hereby);
- (2) Series 1990 A Bonds Reserve Account (established by Prior Ordinance and continued hereby);
- (3) Series 1990 B Bonds Sinking Fund (established by Prior Ordinance and continued hereby);
- (4) Series 1990 B Bonds Reserve Account (established by Prior Ordinance and continued hereby);
- (5) Series 2010 A Bonds Reserve Account.

Section 4.03. Bond Proceeds; Project Construction Account. The proceeds of sale of the Series 2010 A Bonds shall be deposited upon receipt by the Issuer in the Project Construction Account. The monies in the Account in excess of the amount insured by FDIC shall be secured at all times by the Depository Bank by securities or in a manner lawful for the securing of deposits of State and municipal funds under West Virginia law. Monies in the Project Construction Account shall be expended by the Issuer solely for the purposes provided herein.

Monies in the Project Construction Account shall be used solely to pay the cost of acquisition and construction of the Project upon vouchers and other documentation approved by the Purchaser.

Until completion of acquisition and construction of the Project, the Issuer will additionally transfer from the Project Construction Account and pay to the Purchaser on or before the due date, such sums as shall be from time to time required to make the monthly installment payments on the Series 2010 A Bonds if there are not sufficient Net Revenues to make such monthly payment.

Pending application as provided in this Section 4.03, money and funds in the Project Construction Account shall be invested and reinvested at the direction of the Issuer, to the extent possible in accordance with applicable law, in Qualified Investments.

When acquisition and construction of the Project has been completed and all costs thereof have been paid or provision for such payment has been made, any balance remaining in the Project Construction Account shall be disposed of in accordance with the regulations of the Purchaser.

Section 4.04. Covenants of the Issuer as to Revenues and Funds. So long as any of the Series 2010 A Bonds shall be outstanding and unpaid, or until there shall have been set apart in the Series 2010 A Bonds Reserve Account, sums sufficient to pay, when due or at the earliest practical prepayment date, the entire principal of the Series 2010 A Bonds remaining unpaid, together with interest accrued to the date of such payment, the Issuer further covenants with the holder of the Series 2010 A Bonds as follows:

A. REVENUE FUND. The entire Gross Revenues derived from the operation of the System, and all parts thereof, and all Tap Fees received, shall be deposited as collected by the Issuer in the Revenue Fund. The Revenue Fund shall constitute a trust fund for the purposes provided in the Ordinances and shall be kept separate and distinct from all other funds of the Issuer and the Depository Bank and used only for the purposes and in the manner provided in the Ordinances.

B. DISPOSITION OF REVENUES. All Revenues at any time on deposit in the Revenue Fund shall be disposed of only in the following order and priority, subject to the provisions of the Prior Ordinance not otherwise modified herein:

(1) The Issuer shall first, each month, pay from the Revenue Fund the Operating Expenses of the System.

(2) The Issuer shall next, each month, on or before the due date thereof, transfer from the Revenue Fund and simultaneously remit (i) to the Commission for deposit in the Series 1990 A Sinking Fund Bonds the amount required by the Prior Ordinance to pay the interest on the Series 1990 A Bonds; and (ii) to the National Finance Office the amounts required to pay interest on the Series 2010 A Bonds.

(3) The Issuer shall next, each month, transfer from the Revenue Fund and simultaneously (i) on or before the due date thereof, remit to the Commission the amount required by the Prior Ordinance to pay the principal of the Series 1990 A Bonds; and (ii) on or before the due date thereof, remit to the National Finance Office, commencing 24 months following the date of delivery of the Series 2010 A Bonds, the amount required to amortize the principal of the Series 2010 A Bonds over the life of the bond issue.

(4) The Issuer shall next, on the first day of each month, transfer from the Revenue Fund and (i) remit to the Commission, the amount required by the Prior Ordinance to be

deposited in the Reserve Fund for the Series 1990 A Bonds; and (ii) beginning on the date specified by the Purchaser, but in any event not later than the 24<sup>th</sup> monthly anniversary of the Closing Date, thereafter, transfer from the Revenue Fund and remit to the Commission for deposit in the Series 2010 A Bonds Reserve Account, an amount equal to 10% of the monthly payment amount each month, until the amount in the Series 2010 A Bonds Reserve Account equals the Series 2010 A Bonds Reserve Requirement; provided that, no further payments shall be made into the Series 2010 A Bonds Reserve Account when there shall have been deposited therein, and as long as there shall remain on deposit therein, an amount equal to the Series 2010 A Bonds Reserve Requirement.

(5) The Issuer shall next, on the first day of each month, transfer from the Revenue Fund and remit to the Depository Bank for deposit in the Renewal and Replacement Fund, an amount equal to 2 ½ % of the Gross Revenues each month, exclusive of any payments for account of any Reserve Account. All funds in the Renewal and Replacement Fund shall be kept apart from all other funds of the Issuer or of the Depository Bank and shall be invested and reinvested in accordance with Article VIII hereof. Withdrawals and disbursements may be made from the Renewal and Replacement Fund for replacements; repairs, improvements or extensions to the System; provided that, any deficiencies in any Reserve Accounts (except to the extent such deficiency exists because the required payments into such account have not, as of the date of determination of a deficiency, funded such account to the maximum extent required hereof) shall be promptly eliminated with monies from the Renewal and Replacement Fund.

(6) The Issuer shall next each month transfer from the Revenue Fund and remit to the Commission the amount required by Prior Ordinance to pay principal on the Series 1990 B Bonds.

(7) The Issuer shall next each month transfer from the Revenue Fund and remit to the Commission the amount required by Prior Ordinance to be deposited in the Series 1990 B Reserve Account.

(8) After all the foregoing provisions for use of monies in the Revenue Fund have been fully complied with, any monies remaining therein and not permitted to be retained therein may be used to prepay installments of the Bonds, pro rata, or for any lawful purpose of the System.

Whenever the monies in the Series 2010 A Bonds Reserve Account shall be sufficient to prepay the Series 2010 A Bonds in full, it shall be the mandatory duty of the Issuer, anything to the contrary herein notwithstanding, to prepay the Series 2010 A Bonds, at the earliest practical date and in accordance with applicable provisions hereof.

The Depository Bank is hereby designated as the Fiscal Agent for the administration of the Renewal and Replacement Fund as herein provided, and all amounts required for the Renewal and Replacement Fund will be deposited therein by the Issuer upon transfers of funds from the Revenue Fund at the times provided herein, together with written directions stating the amount remitted for deposit into each such fund.

The Commission is hereby designated as the Fiscal Agent for the administration of the Series 2010 A Bonds Reserve Account as herein provided, and all amounts required for said account shall be remitted to the Commission from the Revenue Fund by the Issuer at the times provided herein. If required by the Purchaser at anytime, the Issuer shall make the necessary arrangements whereby required payments into said account shall be automatically debited from the Revenue Fund and Electronically transferred to the Commission on the dates required hereunder.

The Issuer shall, on the first day of each month (if the first day is not a business day, then the first business day if each month), deposit with the Commission the required reserve account payments with respect to the Bonds and all such payments shall be remitted to the Commission with appropriate instructions as to the custody, use and application thereof consistent with the provisions of this Bond Legislation.

The Revenue Fund and the Renewal and Replacement Fund shall constitute trust funds and shall be used only for the purposes and in the order provided herein, and until so used, the Purchaser shall have a lien thereon for further securing payment of the Series 2010 A Bonds and the interest thereon, but the Depository Bank shall not be a trustee as to such funds.

If on any payment date the Revenues are insufficient to make the payments and transfers as hereinabove provided, the deficiency shall be made up in the subsequent payments and transfers in addition to those which would otherwise be required to be made on the subsequent payment dates on a parity and pro rata with respect to the Series 1990 A Bonds.

The Commission and the Depository Bank, at the direction of the Issuer, shall keep the monies in the Series 2010 A Bonds Reserve Account and the Renewal and Replacement Fund invested and reinvested to the fullest extent possible, in accordance with applicable law, and to the extent practicable, in Qualified Investments having maturities consonant with the required use thereof. Investments in any fund or account under this Bond Legislation shall, unless otherwise required by law, be valued at the lower of cost or the then current market value, or at the redemption price thereof if then redeemable at the option of the holder, including value of accrued interest and giving effect to the amortization of discount, or at par if such investment is held by the "consolidated fund" managed by the West Virginia Board of Treasury Investments. Any investment shall be held in and at all times deemed a part of the fund or account in which such monies were originally held, and interest accruing thereon and any profit or loss realized from such investment shall be credited or charged to the appropriate fund or account. Earnings from monies in the Series 2010 A Bonds Reserve Account so long as the Minimum Reserve is on deposit and maintained therein, shall be returned not less than once each year, by the Commission to the Issuer to be deposited in the Revenue Fund.

C. CHANGE OF DEPOSITORY BANK AND FISCAL AGENT. The Issuer may designate another bank or trust company insured by FDIC as Depository Bank and Fiscal Agent if the Depository Bank should cease for any reason to serve or if the Governing Body determines by resolution that the Depository Bank or its successor should no longer serve as Depository Bank. Upon any such change, the Governing Body will cause notice of the change to be sent by registered or certified mail to the Purchaser.

D. USER CONTRACTS. The Issuer shall, prior to delivery of the Series 2010 A Bonds, provide evidence that there will be at least 104 bona fide users upon the System on completion of the Project, in full compliance with the requirements and conditions of the Purchaser.

E. CHARGES AND FEES. The Issuer shall remit from the Revenue Fund to the Commission or the Depository Bank such additional sums as shall be necessary to pay the charges and fees of the Commission or the Depository Bank then due.

F. INVESTMENT OF EXCESS BALANCES. The monies in excess of the sum insured by FDIC in any of such funds or accounts shall at all times be secured, to the full extent thereof in excess of such insured sum, in lawful manner for securing deposits of State and municipal funds under the laws of the State of West Virginia.

G. REMITTANCES. All remittances made by the Issuer to the Commission or the Depository Bank shall clearly identify the fund or account into which each amount is to be deposited.

H. GROSS REVENUES. The Gross Revenues of the System shall only be used for purposes of the System.

Section 4.05. Interim Construction Financing. In order to pay certain costs of the Project pending receipt of proceeds of the grants and advances of principal of the Series 2010 A Bonds, the Issuer may issue and sell its interim construction notes in an aggregate principal amount not to exceed \$2,700,000 (the "Notes"). The Notes shall be in the form of a line of credit from a commercial bank or other lender, and the Issuer is hereby authorized to enter into a credit agreement with such bank or other lender. The Notes shall bear interest from the date or dates, at such rate or rates, payable on such dates and shall mature on such date or dates and be subject to such prepayment or redemption, all as provided in the credit agreement.

The Notes shall be special obligations of the Issuer payable as to principal and interest solely from proceeds of the Series 2010 A Bonds. The Notes do not and shall not constitute an indebtedness of the Issuer within the meaning of any constitutional or statutory provisions. The general funds of the Issuer are not liable, and neither the full faith and credit nor the taxing power of the Issuer, if any, is pledged for the payment of the Notes. The Holders of the Notes shall never have the right to compel the forfeiture of any property of the Issuer. The Notes shall not be a debt of the Issuer, nor a legal or equitable pledge, charge, lien or encumbrance upon any property of the Issuer or upon any of its income, receipts or revenues except as set forth herein.

## ARTICLE V

### GENERAL COVENANTS

Section 5.01. General Statement. So long as the Series 2010 A Bonds shall be outstanding and unpaid, or until there shall have been set apart in the Series 2010 A Bonds Reserve Account a sum sufficient to prepay the entire principal of the Series 2010 A Bonds remaining unpaid, together with interest accrued and to accrue thereon to the date of prepayment, the covenants and agreements contained herein shall be and constitute valid and legally binding covenants between the Issuer and the Holder of the Series 2010 A Bonds.

Section 5.02. Rates. Prior to the issuance of the Series 2010 A Bonds, the Issuer will, in the manner provided in the Act, fix and collect such rates, fees or other charges for the services and

facilities of the System, and revise the same from time to time whenever necessary, as (i) will always provide Revenues in each Fiscal Year sufficient to produce Net Revenues equal to not less than 110% of the maximum annual debt service on the Series 2010 A Bonds and sufficient to make the payments required herein into all funds and accounts and all the necessary expenses of operating and maintaining the System during such Fiscal Year and such rates, fees and other charges shall not be reduced so as to be insufficient to provide adequate Revenues for such purposes; and (ii) so long as the Prior Bonds are Outstanding to provide for all reasonable expenses of operation, repair, maintenance of the System and to leave a balance each Fiscal Year equal to at least 115% of the maximum amount required in any Fiscal Year for the payment of principal of and interest on the Bonds and all other obligations secured by or payable from such revenues; provided that, in the event that an amount equal to or in excess of the reserve requirements for the Bonds prior to or on a parity with the Bonds are funded at least at the requirement therefor, such balance each Fiscal Year need only equal at least 110% of the maximum amount required in any Fiscal year for the payment of principal of and interest on the Bonds and all other obligations secured by or payable from such revenues.

Section 5.03. Sale of the System. So long as the Prior Bonds are Outstanding, the Issuer shall not sell, mortgage, lease or otherwise dispose of or encumber the System, or any part thereof, except as provided in the Prior Ordinance. Additionally, the System will not be sold without the prior written consent of the Purchaser so long as the Series 2010 A Bonds are outstanding.

Section 5.04. Issuance of Additional Parity Bonds or Obligations. So long as the Prior Bonds are outstanding, the limitations on the issuance of parity obligations set forth in the Prior Ordinance shall be applicable. In addition, no additional Parity Bonds or obligations payable out of the Revenues of the System shall be issued, except with the prior written consent of the Purchaser.

So long as the Series 2010 A Bonds are outstanding, no Parity Bonds shall be issued at any time, however, unless there has been procured and filed with the Clerk a written statement by the Independent Certified Public Accountants, reciting the conclusion that the Net Revenues for the Fiscal Year following the year in which such Parity Bonds are to be issued shall be at least 120% of the average annual debt service requirements on the following:

- (1) The Bonds then Outstanding;
- (2) Any Parity Bonds theretofore issued pursuant to the provisions contained in this Bond Legislation then Outstanding;
- (3) The Parity Bonds then proposed to be issued.

The foregoing limitation may be waived or modified by the written consent of the Holders of the Series 2010 A Bonds, representing 75% of the then-outstanding principal indebtedness.

So long as the Prior Bonds are Outstanding, no Parity Bonds shall be issued at any time, unless there has been procured and filed with the Clerk a written statement by the Independent Certified Public Accountants, reciting the conclusion that the Net Revenues actually derived, subject to the adjustments hereinafter provided for, from the System during any 12 consecutive months, within the 18 months immediately preceding the date of the actual issuance of such Parity Bonds, plus the estimated average increased annual Net Revenues expected to be received in each of the 3 succeeding years after the completion of the improvements to be financed by such Parity Bonds, if any, shall not be less than

115% of the largest aggregate amount that will mature and become due in any succeeding Fiscal Year for principal of and interest, if any, on the following:

- (1) The Bonds then Outstanding;
- (2) Any Parity Bonds theretofore issued pursuant to the provisions contained in this Ordinance then Outstanding; and
- (3) The Parity Bonds then proposed to be issued.

The "estimated average increased annual Net Revenues expected to be received in each of the 3 succeeding years," as that term is used in the computation provided in the above paragraph, shall refer only to the increased Net Revenues estimated to be derived from the improvements to be financed by such Parity Bonds and any increase in rates enacted by the Issuer, the time for appeal of which shall have expired prior to the issuance of such Parity Bonds, and shall not exceed the amount to be stated in a certificate of the Independent Certified Public Accountants, which shall be filed in the office of the Clerk prior to the issuance of such Parity Bonds.

The Net Revenues actually derived from the System during the 12-consecutive-month period herein above referred to may be adjusted by adding to such Net Revenues such additional Net Revenues which would have been received, in the opinion of the Independent Certified Public Accountants, on account of increased rates, rentals, fees and charges for the System adopted by the Issuer, the time for appeal of which shall have expired prior to issuance of such Parity Bonds.

No Parity Bonds shall be issued any time, however, unless all the payments into the respective funds and accounts provided for in this Bond Legislation and the Prior Ordinance with respect to the Series 2010 A Bonds and Prior Bonds then Outstanding, and any other payments provided for in this Bond Legislation, shall have been made in full as required to the date of delivery of such Parity Bonds, and the Issuer shall then be in full compliance with all the covenants, agreements and terms of this Bond Legislation and the Prior Ordinance.

Section 5.05. Insurance and Bonds. The Issuer hereby covenants and agrees that it will, as an expense of construction, operation and maintenance of the System, procure, carry and maintain, so long as the Series 2010 A Bonds remain outstanding, insurance with a reputable insurance carrier or carriers covering the following risks and in the following amounts:

A. FIRE, LIGHTNING, VANDALISM, MALICIOUS MISCHIEF AND EXTENDED COVERAGE INSURANCE, to be procured upon acceptance of any part of the Project from the contractor, and immediately upon any portion of the System now in use, on all above-ground structures of the System and mechanical and electrical equipment in place or stored on the site in an amount equal to the actual cost thereof. In the event of any damage to or destruction of any portion of the System, the Issuer will promptly arrange for the application of the insurance proceeds for the repair or reconstruction of such damaged or destroyed portion. The Issuer will itself, or will require each contractor and subcontractor to, obtain and maintain builder's risk insurance to protect the interests of the Issuer during construction of the Project in the full insurable value thereof.

B. PUBLIC LIABILITY INSURANCE, with limits of not less than \$500,000 for one or more persons injured or killed in one accident to protect the Issuer from claims for bodily injury and/or death, and not less than \$200,000 to protect the Issuer from claims for damage to property of others which may arise from the operation of the System, such insurance to be procured not later than the date of delivery of the Series 2010 A Bonds.

C. VEHICULAR PUBLIC LIABILITY INSURANCE, in the event the Issuer owns or operates any vehicle in the operation of the System, or in the event that any vehicle not owned by the Issuer is operated at any time or times for the benefit of the Issuer, with limits of not less than \$500,000 for one or more persons injured or killed in one accident to protect the Issuer from claims for bodily injury and/or death, and not less than \$200,000 to protect the Issuer from claims for damage to property of others which may arise from such operation of vehicles, such insurance to be procured prior to acquisition or commencement of operation of any such vehicle for the Issuer.

D. WORKERS' COMPENSATION COVERAGE FOR ALL EMPLOYEES OF THE ISSUER ELIGIBLE THEREFOR AND PERFORMANCE AND PAYMENT BONDS, such bonds to be in the amounts of 100% of the construction contract, will be required of each prime contractor, and such payment bonds will be filed with the Clerk of the County Commission of said County prior to commencement of construction of the Project in compliance with West Virginia Code Section 38-2-39. Workers' Compensation coverage will be maintained as provided by law.

E. FLOOD INSURANCE to be procured, to the extent available at reasonable cost to the Issuer; provided, however, if the System is located in a community which has been notified as having special flood or mudslide prone areas, flood insurance must be obtained.

F. FIDELITY BONDS will be provided as to every member of the Governing Body and as to every officer and employee of the Issuer having custody of the Revenue Fund or of any Revenues or other funds of the Issuer in such amount as may be requested by the Purchaser from time to time.

G. Provided, however, and in lieu of and notwithstanding the foregoing provisions of this Section, during construction of the Project and so long as the Series 2010 A Bonds are outstanding, the Issuer will carry insurance and bonds or cause insurance and bonds to be carried for the protection of the Issuer, and during such construction will require each contractor and subcontractor to carry insurance, of such types and in such amounts as the Purchaser may specify, with insurance carriers or bonding companies acceptable to the Purchaser.

Section 5.06. Statutory Mortgage Lien. For the further protection of the Holder of the Series 2010 A Bonds, a statutory mortgage lien upon the System is granted and created by the Act, which statutory mortgage lien is hereby recognized and declared to be valid and binding and shall take effect immediately upon the delivery of the Series 2010 A Bonds and shall be for the equal benefit of the Series 2010 A Bonds on a parity with the Series 1990 A Bonds and senior and prior to the Series 1990 B Bonds.

Section 5.07. Events of Default. Each of the following events is hereby declared an "Event of Default":

A. Failure to make payment of any monthly amortization installment upon the Series 2010 A Bonds at the date specified for payment thereof;

B. Failure to duly and punctually to observe or perform any of the covenants, conditions and agreements on the part of the Issuer contained in the Series 2010 A Bonds or herein, or violation of or failure to observe any provision of any pertinent law, or

C. If default occurs with respect to the Prior Bonds or the Prior Ordinance.

Section 5.08. Enforcement. Upon the happening and continuance of any Event of Default, any Registered Owner of a Bond may exercise any available remedy and bring any appropriate action, suit or proceeding to enforce his or her rights and, in particular, (i) bring suit for any unpaid principal or interest then due, (ii) by mandamus or other appropriate proceeding enforce all rights of such Registered Owners including the right to require the Issuer to perform its duties under the Act and the Bond Legislation relating thereto, including but not limited to the making and collection of sufficient rates or charges for services rendered by the System, (iii) bring suit upon the Series 2010 A Bonds, (iv) by action at law or bill in equity require the Issuer to account as if it were the trustee of an express trust for the Registered Owners of the Series 2010 A Bonds, and (v) by action or bill in equity enjoin any acts in violation of the Bond Legislation with respect to the Series 2010 A Bonds, or the rights of such Registered Owners; provided that, all rights and remedies of the Holders of the Series 2010 A Bonds shall be on a parity with those of the Holders of the Series 1990 A Bonds and senior and prior to the Holders of the Series 1990 B Bonds.

Any Registered Owner of the Bonds, by proper legal action, compel the performance of the duties of the Issuer under this Bond Legislation and the Act, including, the completion of the Project and after commencement of operation of the System, the making and collection of sufficient rates and charges for services rendered by the System and segregation of the revenues therefrom and the application thereof. If there be any Event of Default with respect to such Bonds, any Registered Owner of the Bonds shall, in addition to all other remedies or rights, have the right by appropriate legal proceedings to obtain the appointment of a receiver to administer the System or to complete the acquisition and construction of the Project on behalf of the Issuer, with power to charge rates, rentals, fees and other charges sufficient to provide for the payment of Operating Expenses of the System, the payment of the Bonds and interest and the deposits into the funds and accounts hereby established, and to apply such rates, rentals, fees, charges or other revenues in conformity with the provisions of this Bond Legislation and the Act.

The receiver so appointed shall forthwith, directly or by his or her or its agents and attorneys, enter into and upon and take possession of all facilities of said System and shall hold, operate and maintain, manage and control such facilities, and each and every part thereof, and in the name of the Issuer exercise all the rights and powers of the Issuer with respect to said facilities as the Issuer itself might exercise.

Whenever all that is due upon the Bonds and interest thereon and under any covenants of this Bond Legislation for reserve, sinking or other funds and upon any other obligations and interest thereon having a charge, lien or encumbrance upon the revenues of the System shall have been paid and

made good, and all defaults under the provisions of this Bond Legislation shall have been cured and made good, possession of the System shall be surrendered to the Issuer upon the entry of an order of the court to that effect. Upon any subsequent default, any Registered Owner of any Bonds shall have the same right to secure the further appointment of a receiver upon any such subsequent default.

Such receiver, in the performance of the powers hereinabove conferred upon him or her or it, shall be under the direction and supervision of the court making such appointment, shall at all times be subject to the orders and decrees of such court and may be removed thereby, and a successor receiver may be appointed in the discretion of such court. Nothing herein contained shall limit or restrict the jurisdiction of such court to enter such other and further orders and decrees as such court may deem necessary or appropriate for the exercise by the receiver of any function not specifically set forth herein.

Any receiver appointed as provided herein shall hold and operate the System in the name of the Issuer and for the joint protection and benefit of the Issuer and Registered Owners of the Bonds. Such receiver shall have no power to sell, assign, mortgage or otherwise dispose of any assets of any kind or character belonging or pertaining to the System, but the authority of such receiver shall be limited to the completion of the Project and the possession, operation and maintenance of the System for the sole purpose of the protection of both the Issuer and Registered Owners of such Bonds and the curing and making good of any Event of Default with respect thereto under the provisions of this Bond Legislation, and the title to and ownership of the System shall remain in the Issuer, and no court shall have any jurisdiction to enter any order or decree permitting or requiring such receiver to sell, assign, mortgage or otherwise dispose of any assets of the System.

Section 5.09. Fiscal Year; Budget. While the Series 2010 A Bonds are outstanding and unpaid and to the extent not now prohibited by law, the System shall be operated and maintained on a Fiscal Year basis commencing on July 1 of each year and ending on the following June 30, which period shall also constitute the budget year for the operation and maintenance of the System. Not later than thirty days prior to the beginning of each Fiscal Year, the Issuer agrees to adopt the Annual Budget for the ensuing year, and no expenditures for operation and maintenance expenses of the System in excess of the Annual Budget shall be made during such Fiscal Year unless unanimously authorized and directed by the Governing Body. Copies of each Annual Budget shall be delivered to the Purchaser by the beginning of each Fiscal Year.

If for any reason the Issuer shall not have adopted the Annual Budget before the first day of any Fiscal Year, it shall adopt a Budget of Current Expenses from month to month until the adoption of the Annual Budget; provided, however, that no such monthly budget shall exceed the budget for the corresponding month in the year next preceding by more than 10%; and provided further, that adoption of a Budget of Current Expenses shall not constitute compliance with the covenant to adopt an Annual Budget unless failure to adopt an Annual Budget be for a reason beyond the control of the Issuer. Each such Budget of Current Expenses shall be mailed immediately to the Purchaser.

Section 5.10. Covenant to Proceed and Complete. The Issuer hereby covenants to proceed as promptly as possible with the acquisition and construction of the Project to completion thereof in accordance with the plans and specifications prepared by the Consulting Engineer and on file with the Clerk on the date of adoption hereof, subject to permitted changes.

Section 5.11. Books and Records; Audits. The Issuer will keep books and records of the System, which shall be separate and apart from all other books, records and accounts of the Issuer, in

which complete and correct entries shall be made of all transactions relating to the System, and the Purchaser shall have the right at all reasonable times to inspect the System and all records, accounts and data of the Issuer relating thereto.

The Issuer shall, at least once a year, cause said books, records and accounts of the System to be properly audited by an independent competent firm of certified public accountants and shall mail a copy of such audit report to the Purchaser. The Issuer shall further comply with the Act with respect to such books, records and accounts.

Section 5.12. Maintenance of System. The Issuer covenants that it will continuously operate, in an economical and efficient manner, and maintain the System as a revenue-producing utility as herein provided so long as the Series 2010 A Bonds are outstanding.

Section 5.13. No Competition. To the extent legally allowable, the Issuer will not permit competition with the System within its boundaries or within the territory served by it and will not grant or cause, consent to or allow the granting of any franchise, permit or other authorization for any person, firm, corporation, public or private body, agency or instrumentality whatsoever to provide any of the services supplied by the System within the boundaries of the Issuer or within the territory served by the System.

## ARTICLE VI

### RATES, ETC.

Section 6.01. Initial Schedule of Rates and Charges; Rules.

A. The initial schedule of rates and charges for the services and facilities of the System shall be as set forth in the rate ordinance of the Issuer enacted on May 25, 2009 which rate ordinance is incorporated herein by reference as a part hereof.

B. There shall not be any discrimination or differential in rates between customers in similar circumstances.

C. All delinquent fees, rates and charges for services or facilities of the System shall be a lien on the premises served if not paid when due. The Issuer shall have all remedies and powers provided under the Act and other applicable provisions of law with regard to the collection and enforcement of such fees, rates and charges, including, without limitation, any right and power of foreclosure under the Act and/or such other applicable provisions of law.

D. The Issuer will not render or cause to be rendered any free services of any nature by the System nor any of the facilities; and in the event that the Issuer or any department, agency, officer or employee thereof should avail itself or themselves of the services or facilities of the System, the same fees, rates and charges applicable to other customers receiving like services under similar circumstances shall be charged, such charges shall be paid as they accrue, and revenues so received shall be deposited and accounted for in the same manner as other revenues of the System.

E. The Issuer may require any applicant for any service by the System to deposit a reasonable and equitable amount to insure payment of all charges for the services rendered by the System, which deposit shall be handled and disposed of under the applicable rules and regulations of the Public Service Commission of West Virginia.

F. The Issuer shall not be liable to any customer for any damage resulting from bursting or breakage of any pipe, line, main, valve, equipment or part or from discontinuance of the operation of any part of the System or from failure of any part thereof for any cause whatever.

G. In case of emergency, the Issuer shall have the right to restrict the use of any part of the System in any reasonable manner for the protection of the System and the inhabitants of the Issuer.

H. The fees, rates and charges above provided will be increased whenever such increase is necessary in order to comply fully with all provisions hereof, and the Issuer shall always be obligated to and shall fix, establish and collect fees, rates and charges for the services and facilities of the System which shall at all times be sufficient to provide revenues to meet its payments and obligations provided hereunder, but in any event, not less than 110% of the annual debt service on the Bonds outstanding after Prior Bonds are paid in full.

## ARTICLE VII

### MISCELLANEOUS

Section 7.01. Payment of Bonds. If the Issuer shall pay or there shall otherwise be paid to the Holder of the Series 2010 A Bonds, the principal of and interest due or to become due thereon, at the times and in the manner stipulated therein and in this Bond Legislation, then with respect to the Series 2010 A Bonds, the pledge of Revenues and other monies and securities pledged under this Bond Legislation and all covenants, agreements and other obligations of the Issuer to the Registered Owner of the Series 2010 A Bonds, shall thereupon cease, terminate and become void and be discharged and satisfied.

Except through such direct payment to the Holder of the Series 2010 A Bonds, the Issuer may not defease the Series 2010 A Bonds or otherwise provide for payment thereof by escrow or like manner.

Section 7.02. Modification or Amendment. Prior to issuance of the Series 2010 A Bonds, this Ordinance may be amended or supplemented in any way by ordinance or resolution. Following issuance of the Series 2010 A Bonds, no modification or amendment of this Ordinance, or any ordinance or resolution amendatory hereof or supplemental hereto, shall be made without the prior written consent of the Purchaser.

Section 7.03. Delivery of Bonds. The Mayor is hereby authorized and directed to cause the Series 2010 A Bonds, hereby awarded to the Purchaser pursuant to prior agreement, to be delivered to the Purchaser as soon as the Purchaser will accept such delivery.

Section 7.04. Severability of Invalid Provisions. If any one or more of the covenants, agreements or provisions hereof should be held contrary to any express provision of law or contrary to the

policy of express law, although not expressly prohibited, or against public policy, or shall for any reason whatsoever be held invalid, then such covenants, agreements or provisions shall be null and void and shall be deemed separable from the remaining covenants, agreements or provisions hereof, and shall in no way affect the validity of all the other provisions hereof or the Series 2010 A Bonds.

Section 7.05. Conflicting Provisions Repealed. Except for the Prior Ordinance, all ordinances, resolutions and orders, or parts thereof, in conflict with the provisions hereof are, to the extent of such conflicts, hereby repealed; provided that this section shall not be applicable to the Loan Resolution (Form FmHA 442-47).

Section 7.06. Table of Contents and Headings. The Table of Contents and headings of the articles, sections and subsections hereof are for convenience only and shall neither control nor affect in any way the meaning or construction of any of the provisions hereof.

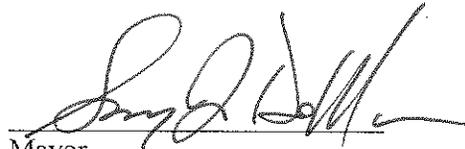
Section 7.07. Covenant of Due Procedure, Etc. The Issuer covenants that all acts, conditions, things and procedures required to exist, to happen, to be performed or to be taken precedent to and in the adoption and enactment of this Ordinance do exist, have happened, have been performed and have been taken in regular and due time, form and manner as required by and in full compliance with the laws and Constitution of the State of West Virginia applicable thereto; and that the Mayor, Clerk and members of the Governing Body were at all times when any actions in connection with this Ordinance occurred and are duly in office and duly qualified for such office.

Section 7.08. Statutory Notice and Public Hearing. Upon adoption hereof, an abstract of this Bond Legislation, determined by the Council to contain sufficient information as to give notice of the contents hereof, shall be published once a week for two successive weeks within a period of fourteen consecutive days, with at least six full days intervening between each publication, in *Clarksburg Exponent*, being qualified newspapers of general circulation in the City of Shinnston, no newspaper being published therein, together with a notice stating that this Ordinance has been adopted, and that the Issuer contemplates the issuance of the Bond, and that any person interested may appear before the Council upon a date certain, not less than ten days subsequent to the date of the first publication of the said abstract and notice and not prior to the last date of such publication, and present protests, and that a certified copy of the Ordinance is on file in the office of the Clerk of the Issuer for review by interested parties during regular office hours. At such hearing, all objections and suggestions shall be heard and the Council shall take such action as it shall deem proper in the premises.

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Section 7.09. Effective Time. This Bond Legislation shall take effect following public hearing hereon in accordance with the Act.

Passed on First Reading: August 30, 2010  
Passed on Second Reading: September 13, 2010  
Passed on Final Reading  
Following Public Hearing: September 27, 2010

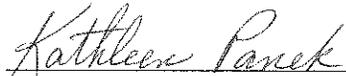
  
\_\_\_\_\_  
Mayor

CERTIFICATION

Certified a true copy of an Ordinance duly enacted by the Council of the City of Shinnston on the 27th day of September, 2010.

Dated this 25th day of October, 2010.

[SEAL]

  
Clerk

818500.00004

CITY OF SHINNSTON

Sewer Revenue Bonds, Series 2010 A  
(United States Department of Agriculture)

SUPPLEMENTAL RESOLUTION

SUPPLEMENTAL RESOLUTION MAKING PROVISIONS AS TO PRINCIPAL AMOUNT, DATE, MATURITY DATE, REDEMPTION PROVISION, INTEREST RATE, INTEREST AND PRINCIPAL PAYMENT DATES, SALE PRICE AND OTHER TERMS OF THE SEWER REVENUE BONDS, SERIES 2010 A OF THE CITY OF SHINNSTON, AND MAKING OTHER PROVISIONS AS TO THE BONDS.

WHEREAS, the council (the "Governing Body") of the City of Shinnston (the "Issuer") has duly and officially adopted and enacted a bond ordinance, September 27, 2010 (the "Bond Ordinance"), entitled:

ORDINANCE AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF CERTAIN ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO THE EXISTING PUBLIC SEWERAGE FACILITIES OF THE CITY OF SHINNSTON, AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED THEREOF, THROUGH THE ISSUANCE BY THE CITY OF NOT MORE THAN \$3,200,000 IN AGGREGATE PRINCIPAL AMOUNT OF SEWER REVENUE BONDS, SERIES 2010 A (UNITED STATES DEPARTMENT OF AGRICULTURE) IN ONE OR MORE SERIES; DEFINING AND PRESCRIBING THE TERMS AND PROVISIONS OF THE BONDS; PROVIDING GENERALLY FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE HOLDER OF THE BONDS; AND PROVIDING WHEN THIS ORDINANCE SHALL TAKE EFFECT.

WHEREAS, capitalized terms used herein and not otherwise defined herein shall have the same meaning set forth in the Bond Ordinance when used herein;

WHEREAS, the Bond Ordinance provides for the issuance of Sewer Revenue Bonds, Series 2010 A, of the Issuer (the "Series 2010 A Bonds"), in an aggregate principal amount not to exceed \$3,200,000, and has authorized the execution and delivery of the documents relating to the Bonds, all in accordance with Chapter 16, Article 13 of the West Virginia Code of 1931, as amended (collectively, the "Act");

WHEREAS, the Governing Body deems it essential and desirable that this supplemental resolution (the "Supplemental Resolution") be adopted;

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF CITY OF SHINNSTON:

Section 1. Pursuant to the Bond Ordinance and the Act, this Supplemental Resolution is adopted and there are hereby authorized and ordered to be issued the following bonds of the Issuer:

A. Sewer Revenue Bonds, Series 2010 A (United States Department of Agriculture), of the Issuer, originally represented by a single Bond, numbered AR-1 in the principal amount of \$2,700,000. The Series 2010 A Bonds shall be dated the date of delivery thereof, shall bear interest at the rate of 3.00% per annum, interest only payable in monthly installments for the first 24 months commencing 30 days following delivery of the Series 2010 A Bonds and continuing on the corresponding day of each month and, thereafter, principal and interest are payable in monthly installments of \$9,936 on the corresponding day of each month, except that the final installment shall be paid at the end of forty (40) years from the date of the Series 2010 A Bonds, in the sum of the unpaid principal and interest due on the date thereof, except that prepayments may be made as hereinafter provided and as provided in the Series 2010 A Bonds, all such payments to be made at the National Finance Office, St. Louis, Missouri 63103, or at such other place as the Purchaser may designate after issuance of the Series 2010 A Bonds. Prepayments of scheduled installments, or any portion thereof, may be made at any time at the option of the Issuer.

Section 2. The estimated cost of the acquisition and construction of the Project is \$4,776,291 of which \$2,700,000 will be obtained from the proceeds of sale of the Bonds, \$1,200,000 will be obtained as a grant from the Purchaser; \$866,016 will be obtained from a grant from the United States Environmental Protection Agency; and \$10,275 will be a contribution from the Issuer.

Section 3. The Mayor and the Clerk are hereby authorized and directed to execute and deliver such other documents and certificates required or desirable in connection with the Bonds hereby and by the Bond Ordinance approved and provided for, to the end that the Bonds may be delivered on or about October 25, 2010, to the Purchaser.

Section 4. The Issuer hereby approves and accepts all contracts relating to the financing, acquisition and construction of the Project.

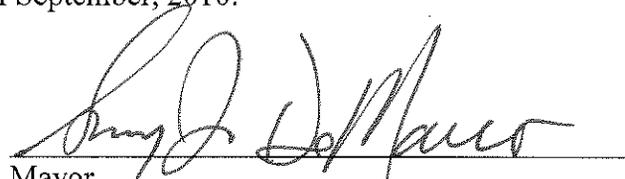
Section 5. The Sanitary Board is hereby authorized to review and approve draw requests on the Project.

Section 6. The Issuer does hereby appoint and designate, WesBanco, Shinnston, West Virginia for the purpose of serving in the capacity of Depository Bank.

Section 7. This Supplemental Resolution shall be effective immediately following adoption hereof.

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Adopted this 27th day of September, 2010.



Handwritten signature of Anthony D. Mauro in cursive script, written over a horizontal line.

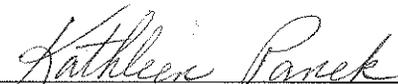
Mayor

CERTIFICATION

Certified a true copy of a Supplemental Resolution duly adopted by the Council of the City of Shinnston on the 27th day of September, 2010.

Dated: October 25, 2010.

[SEAL]

  
\_\_\_\_\_  
Clerk

818500.00004



Chase Tower, Eighth Floor  
P.O. Box 1588  
Charleston, WV 25326-1588  
(304) 353-8000 (304) 353-8180 Fax  
www.stepToe-johnson.com

Writer's Contact Information  
(304) 353-8196 – Telephone  
(304) 353-8180 – Facsimile  
John.stump@stepToe-johnson.com

October 18, 2010

Via Hand Delivery

Sandra Squire, *Executive Secretary*  
Public Service Commission of West Virginia  
201 Brooks Street  
Charleston, West Virginia 25323

Case No.: 08-2052-S-CN

4:52 PM OCT 18 2010 PSC EXEC SEC DIV

CITY OF SHINNSTON

Application for a certificate of convenience and necessity for sewer system improvements to provide reduction of inflow and infiltration, provide access for system maintenance and to improve the treatment process

Dear Ms. Squire:

Enclosed herein for filing on behalf of the City of Shinnston, please find an affidavit by the City's certified public accountant.

Please file the enclosed affidavit and distribute the additional copies to the appropriate parties at the Commission. Additionally, I ask that you date stamp the file copy provided and return it with our messenger. Thank you in advance for your attention to this matter, and should you have any questions please contact me at (304) 353-8196.

Best Regards,

A handwritten signature in black ink, appearing to read 'John C. Stump', written over a horizontal line.

John C. Stump  
(W. V. State Bar No. 6385)

Enclosures

cc: Tom Michael, Esquire

818500.00004

PUBLIC SERVICE COMMISSION OF WEST VIRGINIA

Case No.: 08-2052-S-CN

03:52 PM OCT 18 2010 PSC EXEC SEC DIV

CITY OF SHINNSTON

Application for a certificate of convenience and necessity for sewer system improvements to provide reduction of inflow and infiltration, provide access for system maintenance and to improve the treatment process

STATE OF WEST VIRGINIA

COUNTY OF HARRISON, TO-WIT:

AFFIDAVIT

We have reviewed the Recommended Decision of the Public Service Commission of West Virginia in Case No. 08-2052-S-CN dated September 21, 2009 approving funding consisting of: (a) an Environmental Protection Agency grant in the amount of \$866,000, (b) a Rural Utility Service grant in the amount of \$1,200,000 and; (c) a Rural Utilities Service loan for forty (40) years at 3.652% interest in the amount of \$2,700,000, and based upon all the information that has been provided to us, to date, we are of the opinion that the rates and charges (i) are not affected by the revised funding consisting of: (a) an Environmental Protection Agency grant in the amount of \$866,016, (b) a Rural Utility Service grant in the amount of \$1,200,000; (c) a Rural Utilities Service loan for forty (40) years at 3.0% interest in the amount of \$2,700,000; and (d) a contribution from the City in an amount of \$10,275; and (ii) will be sufficient to provide revenues which, together with other revenues of the System, will allow us to provide the CPA certification required for the issuance of the Bonds.

This Affidavit is executed on the 14 day of October, 2010

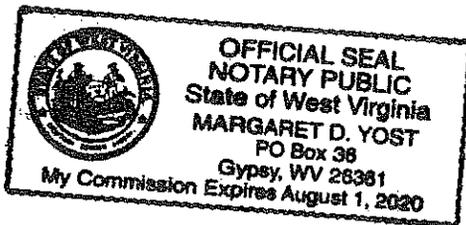
Tetrick & Bartlett, PLLC  
Tetrick & Bartlett, PLLC

Taken, subscribed and sworn to before me this 14 day of October, 2010.

My commission expires 8/1/2020.

Margaret D. Yost  
Notary Public

[SEAL]



PUBLIC SERVICE COMMISSION OF WEST VIRGINIA

Case No.: 08-2052-S-CN

CITY OF SHINNSTON

Application for a certificate of convenience and necessity for sewer system improvements to provide reduction of inflow and infiltration, provide access for system maintenance and to improve the treatment process

STATE OF WEST VIRGINIA

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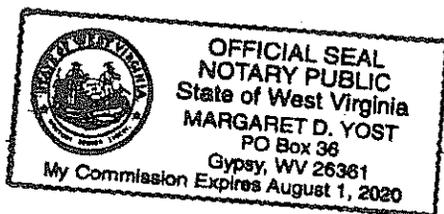
Dutrick & Bartlett PLLC  
Tetrick & Bartlett, PLLC

Taken, subscribed and sworn to before me this 14 day of October, 2010.

My commission expires 8/1/2020.

Margaret D. Yost  
Notary Public

[SEAL]



PUBLIC SERVICE COMMISSION OF WEST VIRGINIA

Case No.: 08-2052-S-CN

CITY OF SHINNSTON

Application for a certificate of convenience and necessity for sewer system improvements to provide reduction of inflow and infiltration, provide access for system maintenance and to improve the treatment process

STATE OF WEST VIRGINIA  
COUNTY OF HARRISON, TO-WIT:

AFFIDAVIT

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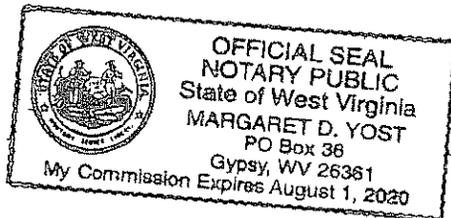
Tetrick & Bartlett PLLC  
Tetrick & Bartlett, PLLC

Taken, subscribed and sworn to before me this 14 day of October, 2010.

My commission expires 8/1/2020.

Margaret D. Yost  
Notary Public

[SEAL]



PUBLIC SERVICE COMMISSION  
OF WEST VIRGINIA  
CHARLESTON

FINAL

10/11/2009

Entered: September 21, 2009

CASE NO. 08-2052-S-CN

CITY OF SHINNSTON

Application for a certificate of convenience and necessity for sewer system improvements to provide reduction of inflow and infiltration, provide access for system maintenance and to improve the treatment process.

RECOMMENDED DECISION

On December 9, 2008, the City of Shinnston (Utility) filed an application for a certificate of convenience and necessity to make certain improvements to its wastewater collection and treatment system.

On December 31, 2008, the Commission referred the matter.

On January 2, 2009, the Utility filed an affidavit of publication indicating that it properly published notice of its filing. On February 6, 2009, the Utility filed an affidavit of mailing and posting indicating that it further complied with the remaining requirements of the Commission's notice requirements.

On February 19, 2009, the Utility moved to toll the statutory deadline for 60 days in order to allow the Utility to pass a required rate ordinance. On February 25, 2009, the Commission tolled the statutory deadline to August 6, 2009.

On April 28, 2009, the Utility filed a request for an additional tolling of the statutory deadline by 30 days, indicating that it needed additional time to pass its municipal ordinance. On May 4, 2009, the Commission granted the Utility's motion to toll the statutory deadline and extended it to September 5, 2009.

On June 8, 2009, the Utility made its third request that the statutory deadline be tolled. The Utility requested 45 days. The Utility indicated that it had trouble properly adopting its municipal ordinance and needed additional time. On June 10, 2009, the Commission tolled the statutory deadline to October 20, 2009.

On August 18, 2009, the Utility made its fourth request to toll the statutory deadline and extend the decision due date. The Utility

KAG

indicated that it needed additional time to work on a cash flow analysis. On August 18, 2009, the Commission tolled the statutory deadline to December 4, 2009 and extended the decision due deadline to October 23, 2009.

By Procedural Order issued August 19, 2009, the matter was set for hearing on September 21, 2009.

On September 18, 2009, Staff recommended that the certificate be issued. By Procedural Order on the same date, the hearing set for September 21, 2009, was canceled.

#### FINDINGS OF FACT

1. On December 9, 2008, the Utility filed an application for a certificate of convenience and necessity to make certain improvements to its wastewater system. (See application).

2. The Utility properly published notice of its filing and complied with the additional rules regarding notifying its customers. (See affidavits filed January 2, 2009 and February 6, 2009).

3. There have been no protests to the application. (See file generally).

4. The West Virginia Infrastructure and Jobs Development Council has determined that this project is technically feasible and within the Council's guidelines. (See Staff filing of September 18, 2009).

5. The project involves improvement to the Utility's treatment plant, as well as, improvements to the collection system to reduce inflow and infiltration. The project will include the replacement of various collection mains and the separation of sanitary and storm flows. The project will also install new storm sewers and backflow prevention devices. The project will add a belt filter press at the treatment plant and rehabilitate the bar screen structure. (Id.).

6. The Utility's system suffered from repeated overloading of the treatment plant during rainfall. The sanitary sewer has cross-connections with the storm water collection system and numerous illegal connections of residential and commercial gutters and surface drains. (Id.).

7. The Utility has 1,034 customers. (Id.).

8. The total project is estimated to cost \$4,776,000 resulting in a project cost per customer of \$4,619. (Id.).

9. Engineering fees are \$735,700, or 21.9% of the construction cost, which is higher than the normal range for engineering fees for a project this size. (Id.).

10. The Division of Environmental Protection has approved the proposed construction plans. (Id.).

11. The project should increase operation and maintenance expenses for the Utility by \$9,052 a year. (See Staff filing of September 18, 2009).

12. The plans and specifications do not conflict with Commission rules and regulations. (Id.).

13. The proposed financing is an Environmental Protection Agency grant of \$866,000, a Rural Utility Service grant of \$1,200,000 and a Rural Utility Service loan of \$2,700,000 for forty (40) years at 3.625% interest, with the first two years requiring only the payment of interest. The Utility has received commitment letters for all project funding. (Id.).

14. The total annual cost associated with the project including O&M expenses, debt service and reserves is approximately \$157,945 a year for the life of the debt. (Id.).

15. The adjusted annual revenues for the fiscal year ending June 30, 2009, at per books, were \$470,398 with annual O&M expenses of \$224,702, total debt service and reserve requirements at \$222,176 and a surplus of \$28,278, resulting in a debt service coverage of 130.99%. (Id.).

16. The Utility increased its sewer rates and charges by ordinance by approximately 39% this summer. (Id.).

17. The Utility's current minimum charge of \$18.14 is based on 2,000 gallons of water and has an average charge of \$36.92 for 4,500 gallons of usage. The new rates, after the increase, will result in a minimum charge of \$25.16 and an average bill of \$51.19. The project rates will have generated an additional \$182,044 and provide a pro forma surplus of \$52,377 and a debt service coverage of 131.33%. (Id.).

#### CONCLUSIONS OF LAW

1. The public convenience and necessity requires the project.
2. The proposed financing is reasonable and should be approved.
3. The application for a certificate of convenience and necessity should be granted without hearing.

#### ORDER

IT IS, THEREFORE, ORDERED that the City of Shinnston be, and hereby is, granted a certificate of convenience and necessity to construct the improvements to its wastewater system which were described in its application filed with the Commission on December 9, 2008. The cost of the approved project shall not exceed \$4,766,000. Approval is contingent upon the Utility obtaining all necessary state and federal permits before construction.

IT IS FURTHER ORDERED that the proposed financing, consisting of an Environmental Protection Agency grant in the amount of \$866,000, a Rural Utility Service grant in the amount of \$1,200,000 and a Rural Utility Service loan for forty (40) years at 3.652% interest with the first two years being interest only in the amount of \$2,700,000 be, and hereby is, approved.

IT IS FURTHER ORDERED that, should the scope or plans for the project change, or project cost or financing changes require a rate increase, the Utility must obtain Commission approval before commencing construction. Changes in project cost or financing do not require separate approval if those changes do not affect rates and the Utility submits an affidavit from a certified public accountant to that effect.

IT IS FURTHER ORDERED that the Utility provide the Commission with a copy of the engineer's certified bid tabulation for all contracts awarded on this project as soon as they are available, but no later than ten days after the bid opening date.

IT IS FURTHER ORDERED that the Utility submit to the Commission a copy of the certificate of substantial completion for each contract associated with the project as soon as they are available, but no later than ten days after issuance.

IT IS FURTHER ORDERED that the Utility submit to the Commission a copy of any permits or approvals by any federal, state or local governmental agency related to this project which have not previously been filed with the Commission as soon as they are available.

IT IS FURTHER ORDERED that the Utility bring its tariff language into compliance with the Commission's then existing Tariff Rules in its next rate ordinance process.

IT IS FURTHER ORDERED that the Utility comply with all rules and regulations of the Division of Highways regarding the use of Division of Highways' rights-of-way.

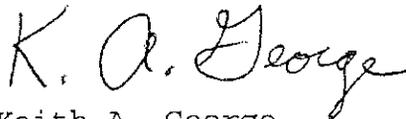
IT IS FURTHER ORDERED that the matter be removed from the open docket.

The Executive Secretary is hereby ordered to serve a copy of this order upon Staff by hand delivery, and upon all parties of record by United States Certified Mail, return receipt requested.

Leave is hereby granted to the parties to file written exceptions supported by a brief with the Executive Secretary within fifteen (15) days of the date this order is mailed. If exceptions are filed, the parties filing exceptions shall certify that all parties of record have been served the exceptions.

If no exceptions are filed, this order shall become the order of the Commission, without further action, five (5) days following the expiration of the fifteen (15) day time period, unless it is ordered stayed by the Commission.

Any party may request waiver of the right to file exceptions to an Administrative Law Judge's Order by filing an appropriate petition with the Secretary. No such waiver will be effective until approved by order of the Commission, nor shall any such waiver operate to make any Administrative Law Judge's Order the order of the Commission sooner than five (5) days after approval of such waiver by the Commission.



Keith A. George  
Administrative Law Judge

KAG:cdk  
082052ad.wpd

**AFFIDAVIT OF PUBLIC NOTICE  
BY POSTING**

State of West Virginia  
County of Harrison, to wit:

I, Debra Herndon, being first duly sworn upon my oath, do depose and say that I am the City Manager for the City/Town of Shinnston, and that I have been duly authorized by the City/Town Council to execute this affidavit of public notice by posting.

The attached public notice, substantially in the format of Tariff Form No. 12 of the Public Service Commission of West Virginia's *Rules for the Construction and Filing of Tariffs*, 150 C.S.R. 2, and as required by 150 C.S.R. 2.22.1.c.4., was first posted in a conspicuous place on the premises where the City/Town conducts its utility business with the public on May 26, 2009 (This date must be the first day after passage of the municipal ordinance.) and remained posted until July 1, 2009 (This date must be at least thirty days after the passage of the municipal ordinance.).

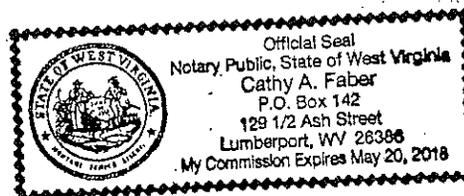
Signed: 

Taken, subscribed and sworn to before me in said county this 5th day of June, 2009.  
My commission expires May 20, 2018.



Notary Public

G:\HOME\CSHORT\WPDOCS\RESEARCH\AFFIDAVIT OF PUBLIC NOTICE BY POSTING.wpd



08-2052-S-EN  
ORDS Shinnston 09A

X

RECEIVED

2009 JUN 8 AM 8 38

W VA PUBLIC SERVICE  
COMMISSION  
SECRETARY'S OFFICE

### PUBLISHER'S CERTIFICATE

I, Sara V Shingleton, Classified  
Manager of THE EXPONENT TELEGRAM, a  
newspaper of general circulation published in the City of  
Clarksburg, County and state aforesaid, do hereby certify  
that the annexed:

#### HEARING TO INCREASE SEWER RATE

was published in THE EXPONENT-TELEGRAM 1  
time(s) commencing on

the 14th day of May 2009 and ending on  
the 14th day of May 2009 at the request of  
CITY OF SHINNSTON.

Given under my hand this 14th day of May 2009

The publisher's fee for said publication is: \$20.80  
for 160 words at \$0.1300 per word per day.

**NOTICE**  
**CITY OF SHINNSTON**  
Notice is hereby given that the City of Shinnston, a municipal corporation, will hold a hearing before the final vote on a proposed ordinance, the principal object of which is the increase of sewer rates for customers of the sewer system operated by the City of Shinnston. The title of such ordinance is "Amendment to the Codified Codes of the City of Shinnston, West Virginia with Regard to the Sewer Service Rates." The final vote on adoption of said proposed ordinance shall be held in the Council Chambers of the City of Shinnston, 43 Bridge Street, at 7:30 o'clock (7:30) p.m. on Monday, May 25, 2009. Interested parties may appear and be heard at such time with respect to the passage of the proposed ordinance. Copies of the proposed ordinance are available at the City Water office at 40 Main Street, Shinnston. Rates will be put into effect upon substantial completion of a sewer improvement project.

Sara V Shingleton

Classified Manager of The Exponent-Telegram



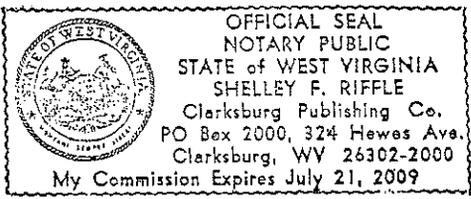
Subscribed to and sworn to before me this 14th day of  
May 2009.

Shelley F. Riffle

Notary Public in and for Harrison County, WV

My commission expires on:

The 21 day of July 2009



Tariff Form No. 12  
(Tariff Rule 44)

PUBLIC NOTICE OF CHANGE IN RATES BY MUNICIPALITIES

NOTICE is hereby given that City of Shinnston (name of utility) public utility, was adopted by ordinance on May 25, 2009 (date) a tariff containing increased rates, tolls and charges for furnishing Sewer (type of utility service) service to 1021 (number of customers) customers at City of Shinnston (name localities) in the County(ies) of Harrison

RECEIVED  
2009 JUN 8 AM 10:38  
WVA PUBLIC SERVICE  
COMMISSION  
SECRETARY'S OFFICE

The proposed increased rates and charges will become effective on substantial completion (date) of project unless otherwise ordered by the Public Service Commission and will produce approximately \$ 177,391.00 annually in additional revenue, an increase of 38.6 %. The average monthly bill for the various classes of customers will be changed as follows:

	(\$)	INCREASE	INCREASE (%)
Residential	\$	<u>          </u>	<u>38.6</u> %
Commercial	\$	<u>          </u>	<u>38.6</u> %
Industrial	\$	<u>          </u>	<u>38.6</u> %
Resale	\$	<u>          </u>	<u>38.6</u> %
Other	\$	<u>          </u>	<u>38.6</u> %

Resale customers of City of Shinnston (name of utility) include None  
(list all resale customers by name).

The increases shown are based on averages of all customers in the indicated class. Individual customers may receive increases that are greater or less than average. Furthermore, the requested rates and charges are only a proposal and are subject to change (increases or decreases) by the Public Service Commission in its review of this filing. The Commission shall review and approve or modify the increased rates only upon the filing of a petition within thirty (30) days of the adoption of the ordinance changing said rates or charges, by:

(1) Any customer aggrieved by the changed rates or charges who presents to the Commission a petition signed by not less than twenty-five percent of the customers served by such municipally operated public utility; or

(2) Any customer who is served by a municipally operated public utility and who resides outside the corporate limits and who is affected by the change in said rates or charges and who presents to the Commission a petition alleging discrimination between customers within and without the municipal boundaries. Said petition shall be accompanied by evidence of discrimination; or

(3) Any customer or group of customers who are affected by said change in rates who reside within the municipal boundaries and who present a petition to the Commission alleging discrimination between said customer or group of customers and other customers of the municipal utility. Said petition shall be accompanied by evidence of discrimination.

All petitions should be addressed to the Executive Secretary, Public Service Commission of West Virginia, 201 Brooks Street, P. O. Box 812, Charleston, West Virginia 25323.

A complete copy of the proposed rates, as well as a representative of the utility to provide any information requested concerning it, is available to all customers, prospective customers, or their agents at any of the following offices of the utility.

40 Main Street Shinnston

A copy of the proposed rates is available for public inspection at the office of the Executive Secretary of the Public Service Commission at 201 Brooks Street, P. O. Box 812, Charleston, West Virginia 25323.

**LOAN RESOLUTION**  
(Public Bodies)

A RESOLUTION OF THE \_\_\_\_\_ City Council

OF THE \_\_\_\_\_ City of Shinnston

AUTHORIZING AND PROVIDING FOR THE INCURRENCE OF INDEBTEDNESS FOR THE PURPOSE OF PROVIDING PORTION OF THE COST OF ACQUIRING, CONSTRUCTING, ENLARGING, IMPROVING, AND/OR EXTENDING ITS Sewer

FACILITY TO SERVE AN AREA LAWFULLY WITHIN ITS JURISDICTION TO

WHEREAS, it is necessary for the \_\_\_\_\_ City of Shinnston  
(Public Body)

(herein after called Association) to raise a portion of the cost of such undertaking by issuance of its bonds in the principal amount of

**TWO MILLION SEVEN HUNDRED THOUSAND AND XX / 100 DOLLARS (\$2,700,000.00)**

pursuant to the provisions of \_\_\_\_\_ Chapter 16, Article 13 of the West Virginia Code ; and

**WHEREAS**, the Association intends to obtain assistance from the United States Department of Agriculture, (herein called the Government) acting under the provisions of the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) in the planning, financing, and supervision of such undertaking and the purchasing of bonds lawfully issued, in the event that no other acceptable purchaser for such bonds is found by the Association:

**NOW THEREFORE**, in consideration of the premises the Association hereby resolves:

1. To have prepared on its behalf and to adopt an ordinance or resolution for the issuance of its bonds containing such items and in such forms as are required by State statutes and as are agreeable and acceptable to the Government.
2. To refinance the unpaid balance, in whole or in part, of its bonds upon the request of the Government if at any time it shall appear to the Government that the Association is able to refinance its bonds by obtaining a loan for such purposes from responsible cooperative or private sources at reasonable rates and terms for loans for similar purposes and periods of time as required by section 333(c) of said Consolidated Farm and Rural Development Act (7 U.S.C. 1983(c)).
3. To provide for, execute, and comply with Form RD 400-4, "Assurance Agreement," and Form RD 400-1, "Equal Opportunity Agreement," including an "Equal Opportunity Clause," which clause is to be incorporated in, or attached as a rider to, each construction contract and subcontract involving in excess of \$10,000.
4. To indemnify the Government for any payments made or losses suffered by the Government on behalf of the Association. Such indemnification shall be payable from the same source of funds pledged to pay the bonds or any other legally permissible source.
5. That upon default in the payments of any principal and accrued interest on the bonds or in the performance of any covenant or agreement contained herein or in the instruments incident to making or insuring the loan, the Government at its option may (a) declare the entire principal amount then outstanding and accrued interest immediately due and payable, (b) for the account of the Association (payable from the source of funds pledged to pay the bonds or any other legally permissible source), incur and pay reasonable expenses for repair, maintenance, and operation of the facility and such other reasonable expenses as may be necessary to cure the cause of default, and/or (c) take possession of the facility, repair, maintain, and operate or rent it. Default under the provisions of this resolution or any instrument incident to the making or insuring of the loan may be construed by the Government to constitute default under any other instrument held by the Government and executed or assumed by the Association, and default under any such instrument may be construed by the Government to constitute default hereunder.
6. Not to sell, transfer, lease, or otherwise encumber the facility or any portion thereof, or interest therein, or permit others to do so, without the prior written consent of the Government.
7. Not to defease the bonds, or to borrow money, enter into any contractor agreement, or otherwise incur any liabilities for any purpose in connection with the facility (exclusive of normal maintenance) without the prior written consent of the Government if such undertaking would involve the source of funds pledged to pay the bonds.
8. To place the proceeds of the bonds on deposit in an account and in a manner approved by the Government. Funds may be deposited in institutions insured by the State or Federal Government or invested in readily marketable securities backed by the full faith and credit of the United States. Any income from these accounts will be considered as revenues of the system.
9. To comply with all applicable State and Federal laws and regulations and to continually operate and maintain the facility in good condition.
10. To provide for the receipt of adequate revenues to meet the requirements of debt service, operation and maintenance, and the establishment of adequate reserves. Revenue accumulated over and above that needed to pay operating and maintenance, debt service and reserves may only be retained or used to make prepayments on the loan. Revenue cannot be used to pay any expenses which are not directly incurred for the facility financed by USDA. No free service or use of the facility will be permitted.



**CERTIFICATION TO BE EXECUTED AT LOAN CLOSING**

I, the undersigned, as \_\_\_\_\_ of the City of Shinnston

hereby certify that the City Council of such Association is composed of

7 members, of whom 6 constituting a quorum, were present at a meeting thereof duly called and held on the 28th day of July, 2008 ; and that the foregoing resolution was adopted at such meeting

by the vote shown above, I further certify that as of October 25, 2010, the date of closing of the loan from the United States Department of Agriculture, said resolution remains in effect and has not been rescinded or amended in any way.

Dated, this 25th day of October, 2010

Samuel A. Mares

Title MAYOR

City of Shinnston  
Sewer Revenue Bonds, Series 2010 A  
(United States Department of Agriculture)

RECEIPT FOR BONDS

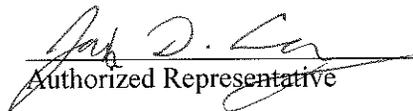
The undersigned, authorized representative of the United States Department of Agriculture, Rural Utilities Service, for and on behalf of the United States of America (the "Purchaser"), hereby certifies as follows:

1. On the 25th day of October, 2010, at Shinnston, West Virginia, the undersigned received for the Purchaser the single, fully registered the City of Shinnston Sewer Revenue Bonds, Series 2010 A (United States Department Agriculture), No. AR-1 (the "Series 2010 A Bonds"), in the principal amount of \$2,700,000, dated as of the date hereof, bearing interest at the rate of 3.0% per annum, and payable in monthly installments as stated in the Bond.

2. At the time of such receipt, the Series 2010 A Bonds had been executed and sealed by the designated officials of the City of Shinnston (the "Issuer").

4. At the time of such receipt, there was paid to the Issuer the sum of \$557,000 being a portion of the principal amount of the Series 2010 A Bonds. The balance of the principal amount of the Series 2010 A Bonds will be paid to the Issuer as acquisition and construction of the Project progresses.

WITNESS my signature on this 25th day of October, 2010.

  
Authorized Representative

818500.00004

5151674

# SPECIMEN

## CITY OF SHINNSTON

### SEWER REVENUE BONDS, SERIES 2010 A (UNITED STATES DEPARTMENT OF AGRICULTURE)

\$2,700,000

No. AR-1

Date: October 25, 2010

FOR VALUE RECEIVED, the CITY OF SHINNSTON (herein called "Borrower") promises to pay to the order of the United States of America (the "Government"), or its registered assigns, at its National Finance Office, St. Louis, Missouri 63103, or at such other place as the Government may hereafter designate in writing, the principal sum of TWO MILLION SEVEN HUNDRED THOUSAND DOLLARS (\$2,700,000), plus interest on the unpaid principal balance at the rate of 3.0% per annum. The said principal and interest shall be paid in the following installments on the following dates: Monthly installments of interest only, commencing 30 days following delivery of this Bond and continuing on the corresponding day of each month for the first twenty-four months after the date hereof, and \$9,936, covering principal and interest, thereafter on said corresponding day of each month, except that the final installment shall be paid at the end of 40 years from the date of this Bond, in the sum of the unpaid principal and interest due on the date thereof, and except that prepayments may be made as provided herein below. The consideration herefor shall support any agreement modifying the foregoing schedule of payments.

If the total amount of the loan is not advanced at the time of loan closing, the loan shall be advanced to Borrower as requested by Borrower and approved by the Government and interest shall accrue on the amount of each advance from its actual date as shown on the Record of Advances attached hereto as a part hereof.

Every payment made on any indebtedness evidenced by this Bond shall be applied first to interest computed to the effective date of the payment and then to principal.

Prepayments of scheduled installments, or any portion thereof, may be made at any time at the option of Borrower. Refunds and extra payments, as defined in the regulations of the Government according to the source of funds involved, shall, after payment of interest, be applied to the installments last to become due under this Bond and shall not affect the obligation of Borrower to pay the remaining installments as scheduled herein.

If the Government at any time assigns this Bond and insures the payment thereof, Borrower shall continue to make payments to the Government as collection agent for the holder.

While this Bond is held by an insured lender, prepayments as above authorized made by Borrower may, at the option of the Government, be remitted by the Government to the holder promptly or, except for final payment, be retained by the Government and remitted to the holder on either a

calendar quarter basis or an annual installment due date basis. The effective date of every payment made by Borrower, except payments retained and remitted by the Government on an annual installment due date basis, shall be the date of the United States Treasury check by which the Government remits the payment to the holder. The effective date of any prepayment retained and remitted by the Government to the holder on an annual installment due date basis shall be the date of the prepayment by Borrower and the Government will pay the interest to which the holder is entitled accruing between the effective date of any such prepayment and the date of the Treasury check to the holder.

Any amount advanced or expended by the Government for the collection hereof or to preserve or protect any security herefor, or otherwise under the terms of any security or other instrument executed in connection with the loan evidenced hereby, at the option of the Government shall become a part of and bear interest at the same rate as the principal of the debt evidenced hereby and be immediately due and payable by Borrower to the Government without demand. Borrower agrees to use the loan evidenced hereby solely for purposes authorized by the Government.

Borrower hereby certifies that it is unable to obtain sufficient credit elsewhere to finance its actual needs at reasonable rates and terms, taking into consideration prevailing private and cooperative rates and terms in or near its community for loans for similar purposes and periods of time.

This Bond, together with any additional bonds ranking on a parity herewith which may be issued and outstanding for the purpose of providing funds for financing costs of acquisition and construction of additions, betterments and improvements to the Sewerage system (the "System") of Borrower, is payable solely from and secured by the revenues to be derived from the operation of the System. This Bond does not in any manner constitute an indebtedness of the Borrower within the meaning of any constitutional or statutory provision or limitation, nor shall the Borrower be obligated to pay the same or the interest thereon except from the special fund so provided.

Registration of this Bond is transferable by the registered owner hereof in person or by his, her or its attorney duly authorized in writing, at the office of Borrower, as Bond Registrar, but only in the manner, subject to the limitations and upon payment of the charges, if any, provided in the herein defined Ordinance, and upon surrender and cancellation of this Bond. Upon such transfer a new Bond or Bonds, of authorized denomination or denominations, for the like principal amount, will be issued to the transferee in exchange herefor.

This Bond, under the provisions of the Act, is and has all the qualities and incidents of a negotiable instrument under the Uniform Commercial Code of the State of West Virginia, but may only be transferred by transfer of registration hereof with the Bond Registrar.

This Bond has been issued under and in full compliance with the Constitution and statutes of the State of West Virginia, including, among others, Chapter 16, Article 13 of the West Virginia Code of 1931, as amended (herein called the "Act"), an Ordinance of Borrower duly enacted on September 27, 2010, and a Supplemental Resolution duly adopted by the Issuer on September 27, 2010 authorizing issuance of this Bond (collectively, the "Ordinance").

If at any time it shall appear to the Government that Borrower may be able to obtain a loan from a responsible cooperative or private credit source at reasonable rates and terms for loans for similar purposes and periods of time, Borrower will, at the Government's request, apply for and accept such loan in sufficient amount to repay the Government.

This Bond is given as evidence of a loan to Borrower made or insured by the Government pursuant to the Consolidated Farm and Rural Development Act of 1965, as amended. This Bond shall be subject to the present regulations of the Government and to its future regulations not inconsistent with the express provisions hereof.

THIS BOND IS ISSUED ON A PARITY WITH RESPECT TO LIENS, PLEDGE AND SOURCE OF AND SECURITY FOR PAYMENT, AND IN ALL RESPECTS, WITH THE ISSUER'S SEWER REVENUE BONDS, SERIES 1990 A (WEST VIRGINIA WATER DEVELOPMENT AUTHORITY), DATED MARCH 29, 1990, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$2,245,223 (THE "SERIES 1990 A BONDS"); AND SENIOR AND PRIOR WITH RESPECT TO LIENS, PLEDGE AND SOURCE OF AND SECURITY FOR PAYMENT, AND IN ALL RESPECTS TO THE ISSUER'S SEWER REVENUE BONDS, SERIES 1990 B (WEST VIRGINIA WATER DEVELOPMENT AUTHORITY), DATED MARCH 29, 1990, ISSUED IN THE ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF \$104,777 (THE "SERIES 1990 B BONDS")

In accordance with the requirements of the United States Department of Agriculture, the Bonds will be in default should any proceeds of the Bonds be used for a purpose that will contribute to excessive erosion of highly erodible land or to the conversion of wetlands to produce an agricultural commodity.

[Remainder of Page Intentionally Blank]

IN WITNESS WHEREOF, the CITY OF SHINNSTON has caused this Bond to be executed by its Mayor and its corporate seal to be hereunto affixed or imprinted hereon and attested by its Clerk, all as of the date hereinabove written.

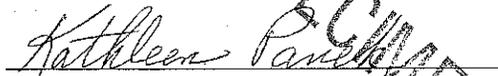
CITY OF SHINNSTON

[CORPORATE SEAL]

  
\_\_\_\_\_  
Mayor

40 Main Street  
Shinnston, West Virginia 26431

ATTEST:

  
\_\_\_\_\_  
Clerk

SPECIMEN

EXHIBIT A

RECORD OF ADVANCES

<u>AMOUNT</u>	<u>DATE</u>	<u>AMOUNT</u>	<u>DATE</u>
(1) \$557,000	October 25, 2010	(19)	
(2)		(20)	
(3)		(21)	
(4)		(22)	
(5)		(23)	
(6)		(24)	
(7)		(25)	
(8)		(26)	
(9)		(27)	
(10)		(28)	
(11)		(29)	
(12)		(30)	
(13)		(31)	
(14)		(32)	
(15)		(33)	
(16)		(34)	
(17)		(35)	
(18)		(36)	

TOTAL \$ \_\_\_\_\_

(Form of Assignment)

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned sells, assigns and transfers to \_\_\_\_\_ the within Bond and does hereby irrevocably constitute and appoint \_\_\_\_\_, Attorney to transfer the said Bond on the books kept for registration of the within Bond of the said Borrower with full power of substitution in the premises.

Dated: \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_

In presence of:

\_\_\_\_\_

CITY OF SHINNSTON

SEWER REVENUE BONDS, SERIES 2010 A  
(UNITED STATES DEPARTMENT OF AGRICULTURE)

\$2,700,000

REGISTRATION BOOKS

(No writing on these Books except by the Issuer as Registrar)

<b>Bond No.</b>	<b>Date of Registration</b>	<b>In Whose Name Registered</b>	<b>Signature of Secretary of Registrar</b>
AR-1	October 25, 2010	United States Department of Agriculture	<i>Kathleen Panek</i>

818500.00004

5151671

October 25, 2010

City of Shinnston  
Sewer Revenue Bonds, Series 2010 A  
(United States Department of Agriculture)

City of Shinnston  
Shinnston, West Virginia

United States Department of Agriculture  
Elkins, West Virginia

West Virginia Water Development Authority  
Charleston, West Virginia

Ladies and Gentlemen:

We have served as bond counsel in connection with the issuance by the City of Shinnston, in Harrison County, West Virginia (the "Issuer"), of its \$2,700,000 Sewer Revenue Bonds, Series 2010 A (United States Department of Agriculture), dated the date hereof (the "Series 2010 A Bonds"), pursuant to Chapter 16, Article 13 of the West Virginia Code of 1931, as amended (the "Act"), and a bond ordinance of the Issuer duly enacted on September 27, 2010 as supplemented by Supplemental resolution duly adopted on September 27, 2010 (collectively, the "Bond Legislation"). We have examined the law and such certified proceedings and other papers as we deem necessary to render this opinion.

As to questions of fact material to our opinion, we have relied upon the representations of the Issuer contained in the Bond Legislation and in the certified proceedings and other certifications of public officials furnished to us without undertaking to verify the same by independent investigation.

Based upon the foregoing, we are of the opinion, under existing law, as follows:

1. The Issuer is duly created and validly existing as a municipal corporation and political subdivision of the State of West Virginia with full power and authority to adopt and enact the Bond Legislation, perform the agreements on its part contained therein and issue and sell the Series 2010 A Bonds, pursuant to the provisions of the Act and other applicable provisions of law.
2. The Bond Legislation has been duly adopted and enacted by the Issuer and constitutes a valid and binding obligation of the Issuer enforceable upon the Issuer.
3. Pursuant to the Act, the Bond Legislation creates a valid lien on the funds pledged by the Legislation for the security of the Series 2010 A Bonds on a parity with the Issuer's Sewer Revenue Bonds, Series 1990 A (West Virginia Water Development Authority), dated March 29, 1990, issued in the original aggregate principal amount of \$2,245,223 (the "Series 1990 A Bonds"); and senior and prior to the Issuer's Sewer Revenue Bonds, Series 1990 B (West Virginia Water Development Authority), dated

March 29, 1990, issued in the original aggregate principal amount of \$104,777 (the "Series 1990 B Bonds"). Other than the Series 1990 A Bonds there are no other outstanding bonds or obligations of the Issuer which rank prior to or on a parity with the Series 2010 A Bonds as to liens, pledge and/or source of and security for payment.

4. The Series 2010 A Bonds have been duly authorized, executed and delivered by the Issuer and is a valid and binding special obligation of the Issuer, payable solely from the sources provided therefor in the Bond Legislation.

5. The Series 2010 A Bonds have not been issued on the basis that the interest, if any, thereon is or will be excluded from the gross income of the owners thereof for federal income tax purposes; therefore, the interest on the Series 2010 A Bonds is not excluded from gross income for federal income tax purposes. We express no opinion regarding other federal tax consequences arising with respect to the Series 2010 A Bonds.

6. The Series 2010 A Bonds are, under the Act, exempt from all taxation by the State of West Virginia, and the other taxing bodies of said State, and interest on the Series 2010 A Bonds is exempt from personal and corporate net income taxes imposed directly thereon by the State of West Virginia.

It is to be understood that the rights of the holder of the Series 2010 A Bonds and the enforceability of the Series 2010 A Bonds, the Bond Legislation and the liens and pledges set forth therein may be subject to and limited by bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting creditors' rights heretofore or hereafter enacted to the extent constitutionally applicable and that the enforcement thereof may also be subject to the exercise of judicial discretion in appropriate cases.

Very truly yours,

  
STEPTOE & JOHNSON PLLC

LAW OFFICE

**Thomas R. Michael**  
ATTORNEY AT LAW  
P.O. BOX 250  
LOST CREEK, WEST VIRGINIA, 26385-0250

PHONE 304-745-5904

FAX 304-745-5907

EMAIL tom\_michael@yahoo.com

October 25, 2010

City of Shinnston  
Sewer Revenue Bonds, Series 2010 A  
(United States Department of Agriculture)

City of Shinnston  
Shinnston, West Virginia

United States Department of Agriculture  
Elkins, West Virginia

Step toe & Johnson PLLC  
Charleston, West Virginia

Ladies and Gentlemen:

I am counsel to the City of Shinnston, a municipal corporation and political subdivision of the State of West Virginia in Harrison County of said State (the "Issuer"). As such counsel, I have examined a copy of the approving opinion of Steptoe & Johnson PLLC, as bond counsel, a bond ordinance of the Issuer duly enacted on September 27, 2010 as supplemented by Supplemental Resolution duly adopted on September 27, 2010 (collectively, the "Bond Legislation"), and other documents and papers relating to the Issuer and the above-captioned Bonds of the Issuer (the "Bonds"). Terms used in the Bond Legislation and not otherwise defined herein shall have the same meanings as in the Bond Legislation when used herein.

I am of the opinion that:

1. The Issuer is duly created and validly existing as a municipal corporation and a political subdivision of the State of West Virginia.
2. The Mayor and Clerk and members of the Council of the Issuer have been duly, lawfully and properly elected or appointed, as applicable, have taken the requisite oaths, and are authorized to act in their respective capacities on behalf of the Issuer.
3. The Bond Legislation has been duly adopted and enacted by the Issuer and is in full force and effect.

4. The execution and delivery of the Bonds and the consummation of the transactions contemplated by the Bonds and the Bond Legislation, and the carrying out of the terms thereof, do not and will not, in any material respect, conflict with or constitute, on the part of the Issuer, a breach of or default under any agreement, document or instrument to which the Issuer is a party or by which the Issuer or its properties are bound or any existing law, regulation, rule, order or decree to which the Issuer is subject.

5. I am of the opinion that the Issuer has received all orders and approvals from the Public Service Commission of West Virginia ("PSC"), including the Recommended Decision dated September 21, 2009 which became a Final Order on October 11, 2009, in Case No. 08-2052-S-CN approving the financing for the Project. The time for appeal of the Commission Orders has expired prior to the date hereof. All Orders remain in full force and effect.

6. All permits, licenses, approvals, consents, certificates, orders, exemptions and authorizations necessary for the creation and existence of the Issuer, the issuance of the Bond, the acquisition and construction of the Project, the operation of the System and the imposition of rates and charges have been entered and/or received, including, without limitation, all requisite orders, certificates, consents and approvals from the Public Service Commission of West Virginia, and the Issuer has duly taken any other action required for the imposition of such rates and charges, including, without limitation, the enactment of an ordinance prescribing such rates and charges, the time for appeal of which has expired prior to the date hereof without successful appeal.

7. To the best of my knowledge, there is no action, suit, proceeding or investigation at law or in equity before or by any court, public board or body, pending or threatened, wherein an unfavorable decision, ruling or finding would adversely affect the transactions contemplated by the Bonds and the Bond Legislation, the acquisition and construction of the Project, the operation of the System, or the validity of the Bonds, or the collection or pledge of the Net Revenues therefor.

All counsel to this transaction may rely upon this opinion as if specifically addressed to them.

Very truly yours,



THOMAS MICHAEL

10.15.10  
818500.00004

CITY OF SHINNSTON

Sewer Revenue Bonds, Series 2010 A  
(United States Department of Agriculture)

COMBINED CERTIFICATE OF ISSUER AND ATTORNEY ON:

1. AUTHORIZATION AND AWARD OF BOND
2. NO LITIGATION
3. GOVERNMENTAL APPROVALS
4. PUBLICATION AND NO PROTEST
5. NO ADVERSE FINANCIAL CHANGE; INDEBTEDNESS
6. SIGNATURES, ETC.
7. CERTIFICATION OF COPIES OF DOCUMENTS
8. INCUMBENCY AND OFFICIAL NAME, ETC.
9. DELIVERY AND PAYMENT AND USE OF PROCEEDS
10. LAND AND RIGHTS OF WAY
11. MEETINGS; PUBLICATION AND POSTING OF NOTICES, ETC.
12. CONTRACTORS' INSURANCE, ETC.
13. CONNECTIONS, ETC.
14. MANAGEMENT
15. CONFLICT OF INTEREST
16. PROCUREMENT OF ENGINEERING SERVICES
17. EXECUTION OF COUNTERPARTS

We, the undersigned MAYOR and CLERK of the City of Shinnston, in Harrison County, West Virginia (the "Issuer"), and the undersigned COUNSEL to the Issuer, acting for the Issuer and in its name, hereby state and certify on this 25th day of October, 2010, in connection with the City of Shinnston Sewer Revenue Bonds, Series 2010 A (United States Department of Agriculture), No. AR-1, fully registered, dated the date hereof, in the principal amount of \$2,700,000, and bearing interest at the rate of 3% per annum (the "Series 2010 A Bonds") as follows:

1. AUTHORIZATION AND AWARD OF BOND: The undersigned are authorized to execute this certificate on behalf of the Issuer and are knowledgeable with respect to the matters set forth herein. The entire issue of the Series 2010 A Bonds have been duly awarded to the United States of America, acting by the United States Department of Agriculture, Rural Utilities Service (the "Purchaser"), pursuant to the Letter of Conditions from the Purchaser, as amended, and as appears in Section 7.03 of the Bond Ordinance duly enacted on September 27, 2010, as supplemented by Supplemental Resolution duly adopted by the Issuer on September 27 2010 authorizing issuance of the Bond (collectively, the "Ordinance" or "Bond Ordinance"). Terms used herein and not otherwise defined herein shall have the same meaning as defined in the Bond Ordinance when used herein. The Series 2010 A Bonds are being issued on this date to permanently finance a portion of the cost of acquisition and construction of the Project located within the boundaries of the Issuer and to pay costs of issuance thereof.

2. NO LITIGATION: No controversy or litigation of any nature is now pending, or, to the knowledge of any of the undersigned, threatened, restraining, enjoining or affecting the issuance and delivery of the Series 2010 A Bonds or receipt of any grant moneys committed for the System; nor questioning the proceedings and authority by which the Issuer authorized the issuance and sale of the Series 2010 A Bonds; nor in any way questioning or affecting the validity of the grants committed for the System or the Series 2010 A Bonds, or any provisions made or authorized for the payment thereof, including, without limitation, the pledge or application of any moneys or security therefor; nor questioning the existence, powers or proceedings of the Issuer or the Council of the Issuer (the "Governing Body") or the title of the members and officers thereof to their respective offices; nor questioning the operation of the sewerage system of the Issuer (the sewerage system, as improved and expanded by the Project, as defined in the Ordinance, is herein called the "System") or the acquisition and construction of the Project being financed in part out of the proceeds of sale of the Series 2010 A Bonds; nor questioning the rates and charges provided for services of the System.

3. GOVERNMENTAL APPROVALS: All applicable and necessary approvals, permits, authorizations, registrations, exemptions, consents and certificates required by law for the acquisition and construction of the Project, the operation of the System, including, without limitation, the imposition of rates and charges, and the issuance of the Series 2010 A Bonds have been duly and timely obtained and remain in full force and effect, the time for appeal of which or rehearing having expired. Competitive bids for the acquisition and construction of the Project have been solicited in accordance with Chapter 5, Article 22, Section 1 of the Official West Virginia Code of 1931, as amended, which bids remain in full force and effect.

The Issuer has received the Recommended Decision of the Public Service Commission of West Virginia entered on September 21, 2009 which became a Final Order on October 11, 2009 in Case No. 08-2052-S-CN, granting to the Issuer a certificate of public convenience and necessity for the Project, and approving the financing for the Project. The time for appeal of the Order has expired prior to the date hereof. Such Order remains in full force and effect.

The Issuer enacted sewer rates and charges for the System On March 23, 2009. The time for appeal of such rates has expired prior to the date hereof without any timely appeals having been filed.

4. PUBLICATION AND NO PROTEST: Notice of public hearing upon the Bond Ordinance as supplemented, was duly published as required by law.

There was not any protest to the passage of the Bond Ordinance, oral or written, and the Bond Ordinance became fully effective following the public hearing thereon and remains in full force and effect.

5. NO ADVERSE FINANCIAL CHANGE; INDEBTEDNESS: There has been no adverse change in the financial condition of the Issuer or the System since the approval by the Purchaser of a loan to assist in acquisition and construction of the Project.

The Issuer has outstanding its Sewer Revenue Bonds, Series 1990 A (West Virginia Water Development Authority), dated March 29, 1990, issued in the original aggregate principal amount of \$2,245,223 (the "Series 1990 A Bonds"), and Sewer Revenue Bonds, Series 1990 B (West Virginia Water Development Authority), dated March 29, 1990, issued in the original aggregate principal amount of \$104,777 (the "Series 1990 B Bonds"), (collectively, the "Prior Bonds"). The Prior Bonds are payable from and secured by a lien on the Net Revenues (as hereinafter defined) of the System.

The Series 2010 A Bonds shall be issued on a parity with the Series 1990 A Bonds and senior and prior to the Series 1990 B Bonds with respect to liens, pledge and source of and security for payment and in all other respects.

The Issuer has obtained (i) a certificate of an Independent Certified Public Accountant stating that the coverage and parity tests of the Prior Bonds are met; (ii) the written consent of the Holders of the Series 1990 A Bonds to the issuance of the Series 2010 A Bonds on a parity with the Series 1990 A Bonds; and (iii) the written consent of the Holders of the Series 1990 B Bonds to the issuance of the Series 2010 A Bonds on a senior and prior basis to the series 1990 B Bonds. Other than the Prior Bonds, there are no other outstanding bonds or obligations of the Issuer which are secured by revenues or assets of the System.

The Issuer is not in default under the terms of the Prior Bonds, the ordinance and resolution authorizing the Prior Bonds or any document in connection therewith, and has complied with all requirements of all the foregoing with respect to the issuance of parity bonds or has obtained a sufficient and valid consent or waiver thereof.

6. SIGNATURES, ETC.: The undersigned Mayor and Clerk did, for the Issuer on the date hereof, officially execute and seal the Series 2010 A Bonds with the official corporate seal of the Issuer, an impression of which seal is on this certificate above our signatures and said officers are the duly elected or appointed (as applicable), qualified and serving officers as indicated by the official titles opposite their signatures below, and are duly authorized to execute and seal the Series 2010 A Bonds for the Issuer.

7. CERTIFICATION OF COPIES OF DOCUMENTS: The copies of the below-listed documents hereto attached or delivered herewith or heretofore delivered are true, correct and complete copies of the originals of the documents of which they purport to be copies, and such original documents are in full force and effect and have not been repealed, rescinded, amended, supplemented or changed in any way unless modification appears from later documents also listed below.

Bond Ordinance

Prior Bond Ordinance

Consent of West Virginia Water Development Authority

Public Service Commission Orders

United States Department of Agriculture Loan Resolution

Specimen Series 2010 A Bond

City Charter

Oaths of Office of Officers and Council Members

Resolution on Open Governmental Proceedings

Sewer Rate Ordinance

Affidavit of Publication on Rate Ordinance

Minutes on Adoption and Enactment of Rate Ordinance

Petition of Sanitary Board

Affidavit of Publication on Bond Ordinance

Minutes on Adoption and Enactment of Bond Ordinance

United States Department of Agriculture Letter of Conditions and Closing Instructions

Receipt of Depository Bank

8. **INCUMBENCY AND OFFICIAL NAME, ETC.:** The proper corporate title of the Issuer is the "City of Shinnston." The Issuer is a municipal corporation in Harrison County and is presently existing under the laws of, and a political subdivision of, the State of West Virginia. The governing body of the Issuer is its council, consisting of a Mayor, a Clerk and 5 councilmembers, all duly elected or appointed, as applicable, qualified and acting, and whose names and dates of commencement and termination of current terms of office are as follows:

<u>Name</u>	<u>Date of Commencement of Office</u>	<u>Date of Termination of Office</u>
Sam DeMarco, Mayor	July 1, 2010	June 30, 2012
Robert Burnett, Vice Mayor	July 1, 2008	June 30, 2012
Vaughan Haggerty, Councilmember	July 1, 2008	June 30, 2012
Mary Ann Ferris, Councilmember	July 1, 2008	June 30, 2012
Rodney Straight, Councilmember	July 1, 2010	June 30, 2014
David Signorelli, Councilmember	July 1, 2010	June 30, 2014
Lance Vernon, Councilmember	July 1, 2010	June 30, 2014

The duly elected or appointed officers of the Sanitary Board for 2010 are as follows:

Debra Herson, Chair  
John Lowman  
Clem Sees, P.E.

The duly appointed Clerk is Kathleen Panek and the duly appointed and acting Counsel to the Issuer is Thomas Michael, Esquire, in Lost Creek, West Virginia.

9. DELIVERY AND PAYMENT AND USE OF PROCEEDS: On the date hereof, the Series 2010 A Bonds were delivered to the Purchaser at Shinnston, West Virginia, by the undersigned Mayor for the purpose herein set forth, and at the time of such delivery, the Series 2010 A Bonds had been duly and fully executed and sealed on behalf of the Issuer in accordance with the Bond Ordinance.

At the time of delivery of the Series 2010 A Bonds, the amount of \$557,000 was received by the undersigned Mayor, being a portion of the principal amount of the Series 2010 A , the balance to be paid as acquisition and construction of the Project progresses.

The Series 2010 A Bond is dated the date hereof and interest on advances thereon at the rate of 3% per annum is payable from the date of each respective advance.

The Series 2010 A Bonds and the entire proceeds thereof will be used for the purposes herein set forth and for no other purposes.

10. LAND AND RIGHTS OF WAY: All land in fee simple and all rights of way and easements necessary for the acquisition and construction of the Project, the operation and maintenance of the System have been acquired or can and will be acquired by purchase, or, if necessary, by condemnation by the Issuer and are adequate for such purposes and are not or will not be subject to any liens, encumbrances, reservations or exceptions which would adversely affect or interfere in any way with the use thereof for such purposes. The costs thereof, including costs of any properties which may have to be acquired by condemnation, are, in the opinion of all the undersigned, within the ability of the Issuer to pay for the same without jeopardizing the security of or payments on the Series 2010 A Bonds.

11. MEETINGS; PUBLICATION AND POSTING OF NOTICES, ETC.: All actions, ordinances, resolutions, orders and agreements taken by and entered into by or on behalf of the Issuer in any way connected with the acquisition, construction, operation and financing of the Project and the System were authorized, enacted or adopted at meetings of the Governing Body of the Issuer duly and regularly called and held pursuant to the Charter of the Issuer and any Rules of Procedure of the Governing Body and all applicable statutes, including particularly and without limitation, Chapter 6, Article 9A of the West Virginia Code of 1931, as amended, and a quorum of duly elected or appointed (as applicable), qualified and acting members of the Governing Body was present and acting at all times during all such meetings. All notices required to be published and/or posted were so published and/or posted.

12. CONTRACTORS' INSURANCE, ETC.: All contractors will be required to maintain Workers' Compensation, public liability and property damage insurance, and builder's risk insurance where applicable, in accordance with the Letter of Conditions of the Purchaser, as amended, and the Bond Ordinance.

13. CONNECTIONS, ETC.: The Issuer will serve at least 104 bona fide full time users of the System, upon completion of the Project, in full compliance with the requirements of the Purchaser.

14. MANAGEMENT: The Issuer has heretofore delivered to the Purchaser a plan concerning operation and management of the System, which plan was found to be acceptable by the Purchaser.

15. CONFLICT OF INTEREST: No officer or employee of the Issuer has a substantial financial interest, direct, indirect or by reason of ownership of stock in any corporation, in any contract with the Issuer or in the sale of any land, materials, supplies or services to the Issuer or to any contractor supplying the Issuer, relating to the Bond, the Bond Ordinance and/or the Project, including, without limitation, with respect to the Depository Bank, as defined in the Bond Ordinance. For purposes of this paragraph, a "substantial financial interest" shall include, without limitation, an interest amounting to more than 5% of the particular business enterprise or contract.

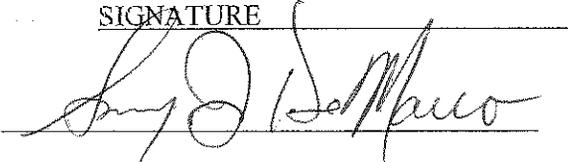
16. PROCUREMENT OF ENGINEERING SERVICES: The Issuer has complied in all respects with the requirements of Chapter 5G, Article 1 of the West Virginia Code of 1931, as amended, in the procurement of engineering services to be paid from proceeds of the Bonds.

17. EXECUTION OF COUNTERPARTS: This document may be executed in one or more counterparts, each of which shall be deemed an original and all of which shall constitute but one and the same document.

[Remainder of Page Intentionally Blank]

WITNESS our signatures and the official corporate seal of the CITY OF SHINNSTON  
on the day and year first written above.

[CORPORATE SEAL]

<u>SIGNATURE</u>	<u>OFFICIAL TITLE</u>
	Mayor
	Clerk
	Counsel to Issuer

818500.00004

CITY OF SHINNSTON

Sewer Revenue Bonds, Series 2010 A  
(United States Department of Agriculture)

ENGINEER'S CERTIFICATE

I, Steven A. Cain, Registered Professional Engineer, West Virginia License No. 015264, of Greenhorn & O'Mara, Inc., Fairmont, West Virginia, hereby certify that my firm was the engineer for the acquisition and construction of improvements and extensions to the existing sewerage system (the "Project") of the City of Shinnston (the "Issuer"), constructed in Harrison County, West Virginia, which acquisition and construction are being financed in whole or in part by the above-captioned revenue bonds of the Issuer.

I further certify that the Project has, to the best of my knowledge, been constructed in accordance with plans and specifications prepared by my firm.

I further certify to the best of my knowledge, that the Project is adequate for the purposes for which it was designed and that all necessary governmental approvals, consents, authorizations, certificates and permits for the acquisition and construction thereof have been obtained or can and will be obtained.

I further certify that the successful bidders have provided the Drug-Free Workplace Affidavit as evidence of the Vendor's compliance with the provisions of Article 1D, Chapter 21 of the West Virginia Code.

I further certify that the Local Government shall cause the contractor(s) to comply with, and provide certification of, the Buy American provisions.

WITNESS my signature on this 25th day of October, 2010.

(SEAL)



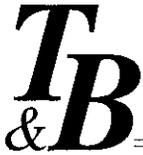
GREENHORN & O'MARA, INC.

A handwritten signature in black ink, appearing to read "S.A. Cain", written over a horizontal line.

Steven A. Cain, P.E.  
West Virginia License No. 015264

818500.00004

5151684



**Tetrick & Bartlett, PLLC**  
Certified Public Accountants  
Consultants

122 N. Oak St. • PO Box 1916 • Clarksburg, WV 26302-1916 • (304) 624-5564 • Fax: (304) 624-5582 • www.tetrickbartlett.com

October 25, 2010

City of Shinnston  
Sewer Revenue Bonds, Series 2010 A  
(United States Department of Agriculture)

West Virginia Water Development Authority  
Charleston, West Virginia

City of Shinnston  
Shinnston, West Virginia

United States Department of Agriculture  
Elkins, West Virginia

Ladies and Gentlemen:

Based upon the rates and charges set forth in the sewer rate ordinance enacted by the City of Shinnston (the "Issuer") on May 25, 2009 and projected operation and maintenance expenses and anticipated customer usage as furnished to me by the Issuer, it is our opinion that such rates and charges will be sufficient to provide revenues which, together with other revenues of the sewerage system (the "System") of the Issuer, will pay all repair, operation and maintenance expenses of the System and leave a balance each year equal to at least 115% of the maximum amount required in any year for debt service on the Sewer Revenue Bonds, Series 2010 A (United States Department of Agriculture), dated October 25, 2010, issued in the original aggregate principal amount of \$2,700,000 and the Issuer's outstanding: (i) Sewer Revenue Bonds, Series 1990 A (West Virginia Water Development Authority), dated March 29, 1990, issued in the original aggregate principal amount of \$2,245,223, and (ii) Sewer Revenue Bonds, Series 1990 B (West Virginia Water Development Authority), dated March 29, 1990, issued in the original aggregate principal amount of \$104,777 (collectively, the "Prior Bonds").

It is further our opinion that the Net Revenues actually derived from the System during any 12 consecutive months, within the 18 months immediately preceding the date of the actual issuance of the Series 2010 A Bonds, plus the estimated average increased annual Net Revenues expected to be received in each of the 3 succeeding years after the completion of the improvements to be financed by the Series 2010 A Bonds, are not less than 115% of the largest aggregate amount that will mature and become due in any succeeding fiscal year for the principal of and interest on the Series 2010 A Bonds and the Prior Bonds currently outstanding.

Very truly yours,

*Tetrick & Bartlett, PLLC*

Tetrick & Bartlett, PLLC

CHARTER  
OF THE CITY OF  
SHINNSTON, WEST VIRGINIA

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EDITOR'S NOTE: The Shinnston Charter was enacted on  
June 28, 1998.

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CHARTER  
OF THE CITY OF  
SHINNSTON, WEST VIRGINIA

---

**SECTION 1. INCORPORATION; SUCCESSION; NUMBER OF WARDS**

The inhabitants of the City of Shinnston, Harrison County, West Virginia, within the corporate limits thereof as now established or as may hereafter be established in the manner provided by law, shall be and continue in perpetuity to be a municipal body politic and corporate, under the name of the "City of Shinnston," with all the powers of self-government granted by the constitution and laws of the state.

The City of Shinnston, as successor in interest of the present municipal corporation of the same name, shall succeed to, own, possess and enjoy all the property and all the rights, titles and interest of every kind and nature vested in or belonging to such municipal corporation at the time this Charter becomes effective, shall be subject to all existing liabilities shall be bound by and through the appropriate agency shall pay all existing debts, and shall faithfully perform all present duties and discharge all present obligations of such corporation.

The territory embraced within said City shall be divided into four wards as now established, or as may hereafter be established, and the Council of said City may change the boundaries of said wards, or create additional ones, as may appear to said Council to be proper or necessary; but no change shall be made in the boundaries of said wards, or any new ward created, less than sixty days before the holding of a general election for said City.

**SECTION 2. FORM OF GOVERNMENT**

There is established by this Charter the "Manager Plan" form of municipal government as prescribed in Plan IV of section two, article three, chapter eight of the Official Code of West Virginia, as amended. Except as otherwise provided in this Charter, the Council shall be the governing authority of the City, and shall appoint the City Manager who shall execute the laws and administer the government of the City, except as otherwise provided herein.

**SECTION 3. POWERS OF THE CITY**

The City shall have all the powers specifically provided for in this Charter, and shall also have all the powers now or hereafter granted to municipal corporations and to cities of the same class by the constitution and general laws of the state, together with all the implied powers necessary and proper to carry into execution the powers so granted. The enumeration herein of particular powers shall not be deemed exclusive, but the City shall have and may exercise all the powers which under the constitution and laws of the state might properly be specifically enumerated in this Charter.

#### SECTION 4. THE COUNCIL; QUALIFICATIONS, TERMS OF OFFICE, AND SALARY OF MEMBERS; SELECTION OF MAYOR

The Council shall consist of seven members, one from each of the four wards established by the qualified voters of the City for terms of four years beginning on the first day of July following their election, except that of the seven Council members elected at the first election held under the provisions of the Charter, the three Council members elected at large shall be elected for terms of two years.

In order to determine the ward representatives of Council of the first administration under the first provisions of this Charter, all candidates for Council in the first election under this Charter shall file and declare by the ward in which they reside. Eligible voters shall be able to vote for all seven Council positions in the first election under this Charter. The person receiving the highest number of votes in that candidate's ward shall be the ward representative. The three persons receiving the highest number of votes after all four wards are represented shall be the at large Council members.

At each regular election thereafter, either three or four Council members, as the case may be, shall be elected to succeed the incumbent members whose terms of office expire on the thirtieth day of June following the election. The terms of all Council members in office on the date this Charter is adopted shall continue until the close of business on the 30th day of June following the first regular election held hereunder.

Council members shall be qualified voters of the City, shall be residents of the City, shall hold no other public office except that of notary public or member of the National Guard or naval or military reserve, and shall not be employed by the City in any capacity. If a Council member shall cease to be qualified or shall be convicted of treason, felony, or bribery in any election, their office shall immediately become vacant. To file for Council, a candidate must present the appropriate form and pay a \$10.00 filing fee. The first election under this Charter shall be held on June 9, 1998. Subsequent elections shall be held on the first Tuesday in June in even numbered years thereafter.

A special meeting of the Council shall be held at 12:00 noon on the 1st day of July following each regular City election. If the former Mayor has been re-elected to Council and is present, the former Mayor shall preside as temporary chairperson. Otherwise, the person receiving the highest number of votes shall preside. Then, newly elected Council members shall be inducted into office. The Council shall then elect one of its members to serve as Mayor for a term of two years. The Mayor shall preside at meetings of the Council and shall be recognized as the head of the City government for all ceremonial and military purposes, but shall have no regular administrative duties unless otherwise provided herein or directed by Council. The Council shall elect from among its members a Vice-Mayor who shall act as Mayor during the absence or disability of the Mayor and, if a vacancy occurs, shall become Mayor for the remainder of the unexpired term.

The compensation of the Mayor and members of Council shall be set by ordinance.

#### SECTION 5. CITY COUNCIL - PROHIBITIONS

(a) Holding Other Office. Except where authorized by law, no Council member shall hold any other elected public office during the term for which the member was elected to the Council. No Council member shall hold any other City office or employment during the terms for which the member was elected to the Council. No former Council member shall hold any compensated appointive office or employment with the City until one year after the expiration of the term for which the member was elected to the Council. Nothing in this section shall be construed to prohibit the Council from selecting any current or former Council member to represent the City on the governing board of any regional or other intergovernmental agency.

(b) Appointments and Removals. Neither the City Council nor any of its members shall in any manner control or demand the appointment or removal of any City administrative officer or employee whom the City Manager or any subordinate of the City Manager is empowered to appoint, but the Council may express its views and fully and freely discuss with the City Manager anything pertaining to appointment and removal of such officers and employees.

(c) Interference with Administration. Except for the purpose of inquiries and investigations under Section 7 of this Charter, the Council or its members shall deal with City officers and employees who are subject to the direction and supervision of the City Manager solely through the City Manager, and neither the Council nor its members shall give orders to any such officer or employee, either publicly or privately.

(d) Conflict of Interest. Any member of the Council having any interest direct or indirect, other than as a citizen of the City of Shinnston, in any matter to be acted upon in any way by Council, shall divulge that interest to the City Council and shall have no vote on such matter, nor shall he/she be privileged to take part in the discussion thereof except by unanimous consent, and, upon the request of any other member of the Council, the member shall retire from the session until such matter has been disposed of.

#### SECTION 6. VACANCIES; FORFEITURE OF OFFICE; REMOVAL FROM OFFICE; FILLING OF VACANCIES

(a) Vacancies. The office of a Council member shall become vacant upon the member's death, resignation, removal from office or forfeiture of office in any manner authorized by law.

(b) Forfeiture of Office. A Council member shall forfeit that office if the Council member (1) lacks at any time during the term of the office for which elected any qualification for the office prescribed by this Charter or by law, or (2) while holding such office is convicted of treason, felony, or bribery in any election.

(c) Removal from Office. A Council member shall be subject to removal from office in the manner provided for the removal of municipal officers in section seven, article six, chapter six of the official Code of West Virginia, as amended, if the Council member (1) violates any express prohibition of this Charter, (2) is convicted of a crime involving moral turpitude, or (3) fails to attend three consecutive regular meetings of the Council without being excused by the Council.

(d) Filling of Vacancies. If a vacancy occurs in the City Council, the Council by a majority vote of all its remaining members shall appoint a qualified person to fill the vacancy. An individual who has forfeited the office of member of the City Council cannot be reappointed to complete the unexpired term. The appointee will remain in office until the person elected to serve the remainder of the unexpired term takes office. This person will be elected at the regular municipal election following the date the vacancy occurred. If the vacancy occurs less than 60 days prior to the next municipal election, the appointee will remain in the office the remainder of the unexpired term of the Council member. If the Council fails to appoint someone to fill the vacancy within 45 days, then of the unsuccessful candidates for the office of member of Council at the last election, who are still qualified and willing to serve, the one who received more votes than any of the others shall be entitled to the office. A special

election shall be held within 40 days, following all other efforts to fill a Council vacancy, if those efforts are unsuccessful in filling the vacancy with a qualified replacement. If a special election does not fill the vacancy, then the Mayor shall appoint a qualified person to fill the vacancy.

(e) Appointments and/or Elections. Appointments and/or elections to fill any vacancy on Council shall be done in such a manner to keep intact the respective ward and at-large representation of the electorate.

#### SECTION 7. CITY COUNCIL - JUDGE OF QUALIFICATIONS

The City Council shall be the judge of the election and qualifications of its members and of the grounds for forfeiture of their office. In order to exercise these powers, the Council shall have the power to subpoena witnesses, administer oaths and require the production of evidence. The City Clerk shall notify a member charged with conduct constituting grounds for forfeiture of office by certified mail.

If the member desires a public hearing, he/she must notify the City Council within ten days. The public hearing must be heard no later than twenty days after the receipt of the request for a hearing. A notice of such hearing shall be published in one or more newspapers of general circulation in the City at least one week in advance of the hearing. Decisions made by the Council under this section shall be subject to judicial review.

#### SECTION 8. POWERS OF THE COUNCIL; APPOINTMENT AND TENURE OF THE CITY MANAGER

Subject to any limitations imposed by the constitution and general laws of the state, all powers of the City shall be vested in and exercised by the Council, except such powers as are by this Charter specifically vested in the sanitary board and such powers as are by general law vested in the other boards or commissions provided for in this Charter or hereafter created by Council pursuant to general law. No franchise granted by the Council may be transferred in whole or in part without the written consent of Council.

The Council shall appoint a City Manager to serve for an indefinite term, and may at any time remove him/her from office by the affirmative vote of not less than four of its members. At least thirty days before such removal shall become effective, the Council shall adopt a preliminary resolution stating the reasons for his/her removal, and specifying the date on which his/her removal shall become final. At any time within ten days after the adoption of such resolution, upon the written request of the Manager, he/she shall be afforded an opportunity to be heard at a public meeting of the Council, which shall be held no earlier than ten nor later than twenty days after the request was made, and at a time and place to be fixed by Council. After such public hearing if one is requested, after full consideration, the Council by the affirmative vote of four of its members may adopt a final resolution of removal. By the preliminary resolution the Council may suspend the Manager with pay for a period not to exceed thirty days, and may designate some other person to perform the duties of the Manager during the period of his/her suspension.

The City Manager shall be a person of proved executive and administrative ability, preferably with experience and training in the field of City management. At the time of his/her appointment he/she need not be a resident of the City or state, but during his/her tenure of office shall reside within the State of West Virginia. No Council member, during his/her term and for a year thereafter, shall be eligible for appointment as City Manager.

Neither the Council nor any of its members shall direct or in any manner interfere with or obstruct the appointment or removal of any City officer or employee by the City Manager or by any of his/her subordinates. Except for the purpose of inquiry, the Council and its members shall deal with the administrative service solely through the City Manager and neither the Council nor any member thereof shall give orders to any subordinates of the City Manager, either publicly or privately. If any Council member shall violate the provisions of this section, he/she shall be subject to removal from office pursuant to section seven, article six, chapter six of the official code of West Virginia, as provided by Section 6, Subsection (c) of this Charter.

Except as otherwise provided by this Charter, and within the limitations imposed by the constitution and general laws of the state, the Council may determine the powers and duties of City officers, and subject to the requirements of general law may regulate the number, method of selection, qualifications, tenure, and compensation of City officers and employees, including the establishment of civil service for such employees.

#### SECTION 9. POWERS AND DUTIES OF CITY MANAGER

Except as otherwise provided in the Charter, the City Manager shall be the head of the administrative branch of the City government. He/she shall be responsible to the Council for the proper and efficient administration of all affairs of the City under his/her authority, and to that end, except as otherwise provided in this Charter, he/she shall have the power and shall be required to:

- (1) Appoint and, when he/she deems it necessary or advisable, remove all officers and employees of the City except as otherwise provided by this Charter or by general law, and except as he/she may authorize the head of a department or office to appoint and remove subordinates in such department or office.
- (2) Prepare the annual budget, submit it to the Council for adoption, and be responsible for its administration after adoption.
- (3) Prepare and submit to the Council as of the end of each fiscal year a complete report on the finances and administrative activities of the City for the preceding year.
- (4) Advise the Council with respect to future plans and physical needs, and keep it informed concerning the current financial condition of the City.
- (5) Require the chief of police and the chief of the fire department to establish for their respective departments a course of training designed to promote the more efficient and safe operation of their departments.
- (6) Execute on behalf of the City all legal and other written documents requiring execution by the chief executive officer of the City, acknowledge the same if necessary, and perform all other acts and duties required of the chief executive officer of the City.
- (7) Perform such other duties as may be required of him/her by this Charter, by general law, or by order of the Council not inconsistent with this Charter or with general law.

The Manager may by letter filed with the City Clerk designate some qualified administrative officer of the City to perform the duties of the Manager during his/her temporary absence or disability. If the Manager fails to make such designation, the Council may by resolution appoint an officer of the City to act for the Manager during his/her absence or disability.

SECTION 10. CITY CLERK

The Council shall appoint a resident of the City to serve as City Clerk at the will and pleasure of the Council. Except as otherwise provided in this Charter and subject to the supervision of the City Manager, the Clerk shall have the power and it shall be his/her duty to:

- (1) Give notice of and attend all meetings of the Council, keep the journal of its proceedings, authenticate by his/her signature and record in full in a book kept for the purpose all ordinances and resolutions of the Council, prepare and keep up to date an index of all such ordinances and resolutions, and keep all such records available for public inspection when not in use.
- (2) Make and certify copies of any ordinance, resolution or order of the Council whenever required to do so, and affix the corporate seal of the City to any paper required to be sealed and to any certified copy of any paper, order or proceeding which he/she may make.
- (3) Prepare and cause to be served all notices required to be given to any person, firm or corporation, and after the proper service and return of any notice he/she shall file and preserve the same.
- (4) Have custody of and keep available for public inspection the permanent records of the City and file and properly index all records of such City officers and departments as the City Manager may direct.
- (5) Perform such other duties as may be required of him/her by this Charter, by general law, or by City ordinance or order of the City Manager not inconsistent with this Charter or with general law.

SECTION 11. RECALL OF A MEMBER OF COUNCIL

Any member of Council may be removed from office by the following procedure: a petition signed by at least twenty percent of the qualified voters of a ward for a ward Council member or of the City for an at-large member shall be filed with the City Clerk, which Petition shall contain a general statement of the grounds for which the removal is sought. The petition shall be accompanied by a bond in an amount determined by the City Clerk to equal the cost of the recall election with sufficient surety to pay the cost of the recall election if a majority of the legal votes cast are against the recall. Such petition and bond shall be submitted to, examined and certified by the City Clerk, and if such petition be deemed sufficient by the City Clerk, the City Clerk shall certify the same to the City Council without delay. Upon receipt of such petition the Council shall order and fix a date for holding a special recall election, not less than thirty days nor more than fifty days from the date of the City Clerk's certificate. The Council shall publish notice of the election at least ten days prior to the recall election in two newspapers of general circulation in the City. The ballot for such recall election shall be substantially of the following form and effect:

OFFICIAL BALLOT

\_\_\_\_\_ day of \_\_\_\_\_, in the year \_\_\_\_\_. Special recall election for the removal of

\_\_\_\_\_

\_\_\_\_\_ For the recall of \_\_\_\_\_.

\_\_\_\_\_ Against the recall of \_\_\_\_\_.

Should a majority of the votes cast be in favor of recall the person recalled shall forthwith forfeit his/her office and the Council shall appoint a successor to such office following the provisions in Section 6 of this Charter.

The method of removal shall be cumulative and in addition to any other methods of removal provided by law. No recall petition shall be filed within ninety days succeeding or preceding any regular Council election. Not more than one recall election shall be held with respect to an officer during his/her term of office.

#### SECTION 12. CITY COUNCIL - INDEPENDENT AUDIT

The City Council shall provide for an independent annual audit of all City accounts and may provide for more frequent audits as it deems necessary. Such audits shall be made by a certified public accountant or firm of such accountants who have no personal interest, direct or indirect, in the fiscal affairs of the City government or any of its officers. The Council may, without requiring competitive bids, designate such accountant or firm annually or for a period not exceeding three years, but the designation for any particular fiscal year shall be made no later than 30 days after the beginning of such fiscal year. If the state makes such an audit, the Council may accept it as satisfying the requirements of this section.

#### SECTION 13. MEETINGS OF COUNCIL; RULES OF PROCEDURE; JOURNAL AND VOTING

(a) Meeting. The Council shall meet on the second Monday of each month at 7:00 p.m. Special meetings may be held on the call of the mayor or of three or more members and, except in cases of emergency, upon no less than twenty-four hours' notice to each member, the public and news media, specifying the time, place and purpose of the meeting. Except as allowed by the Open Governmental Proceedings Act, Chapter 6, Article 9A, Section 4 of the West Virginia Code, all meetings shall be public. (Amended 1-31-00)

(b) Rules and Journal. The City Council shall determine its own rules and order of business and shall provide for keeping a journal of its proceedings. An updated and official record of the City ordinances along with the City Charter shall be kept in a locked, secure location under the supervision of the City Clerk. A copy of the journal of Council proceedings, the City Charter and the City ordinances shall be kept at the City building and be available to the public.

(c) Voting. Voting, except on procedural motions, shall be by roll call and the ayes and nays shall be recorded in the journal. Four members of the Council shall constitute a quorum. The Mayor shall be entitled to vote on all matters before the Council. The Council shall by resolution adopt by-laws prescribing its own rules, procedure, and order of business, and shall keep a journal of all its proceedings, which shall be available for public inspection.

(d) Agenda. The City Manager shall make a preliminary agenda available to each Council member, the City Attorney, the media, and interested citizens no later than the close of business on the Thursday preceding the regularly scheduled meeting of the Council, and a final agenda at the start of the meeting itself.

#### SECTION 14. ACTION REQUIRING ORDINANCE

In addition to other acts required by law or by specific provision of this Charter to be done by ordinance, those acts of the City Council shall be done by ordinance which:

- (1) Adopt or amend an administrative code or establish, alter, or abolish any City department, office or agency;
- (2) Provide for a fine or other penalty or a rule or regulation for violation of which a fine, or other penalty is imposed;
- (3) Levy taxes or provide for the collection of fees of any kind;
- (4) Require a license to do business;
- (5) Provide for public improvement;
- (6) Grant, renew or extend a franchise;
- (7) Regulate the rate charged for its services by a public utility;
- (8) Authorize the issuance of bonds or other forms of indebtedness;
- (9) Lay out or vacate a public street, avenue, road, alley or way
- (10) Relate to planning and zoning;
- (11) Regulate land use and development;
- (12) Provide for contractual or other agreements with other jurisdictions;
- (13) Provide for the purchase of private property by the municipality or for the sale of property belonging to the municipality; and
- (14) Amend or repeal any ordinance previously adopted.

Acts other than those referred to in the preceding sentence may be done either by ordinance or by resolution.

#### SECTION 15. ORDINANCES IN GENERAL

(a) Form. Every proposed ordinance shall be introduced in writing in the form required for final adoption. No ordinance shall contain more than one subject which shall be clearly expressed in its title. The enacting clause shall be "The City of Shinnston hereby ordains.." Any Ordinance which repeals or amends an existing ordinance or part of the City Code shall set out in full the ordinance, sections or subsections to be repealed or amended, and shall indicate matters to be omitted by enclosing it in brackets or by striking type and shall indicate new matters by underscoring or by italics.

(b) Procedure. Any ordinance may be introduced by any member at any regular or special meeting of the Council. Upon introduction of any ordinance, the City Clerk shall distribute a copy to each Council member and to the City Manager and shall file a reasonable number of copies in the office of the City Clerk and such other public places as the Council may designate. The proposed ordinance shall be read by title at not less than two meetings of the City Council with at least one week intervening between each meeting unless a member of the City Council demands that the ordinance be read in full at one or both meetings. If such demand is made, the ordinance shall be read in full as demanded. The City Clerk shall publish the ordinance together with a notice setting out the time and place for a public hearing thereon and for its consideration by the Council. The public hearing shall follow the publication by at least five days, may be held separately or in connection with a regular or special Council meeting and may be adjourned from time to time; all persons interested shall have an opportunity to be heard. After the hearing the Council may adopt the ordinance with or without amendment or reject it, but if it is amended as to any substance, the Council may not adopt it until the ordinance or its amended sections have been subjected to all the procedures herein before required in the case of a newly introduced ordinance. As soon as practicable after adoption, the Clerk shall have the ordinance and a notice of its adoption, published and available at a reasonable price.

(c) Effective Date. Except as provided in this Charter, every adopted ordinance shall become effective at the expiration of 30 days after adoption or at any later date specified therein.

(d) "Publish" Defined. As used in this section, the term "Publish" means to print in one or more newspapers of general circulation in this City:

- (1) The subject matter and general title or titles thereof, and
- (2) The places where copies of it have been filed and the times when they are available for public inspection and purchase at a reasonable price.

#### SECTION 16. EMERGENCY ORDINANCES

To meet a public emergency affecting life, health, property or the public peace, the City Council may adopt one or more emergency ordinances, but such ordinances may not levy taxes, grant, renew or extend a franchise, regulate the rate charged by any public utility for its services or authorize the borrowing of money except as provided in Section 3. An emergency ordinance shall be introduced in the form and manner prescribed for ordinances generally, except that it shall be plainly designated as an emergency ordinance and shall contain, after enacting clause, a declaration stating that an emergency exists and describing it in clear and specific terms. An emergency ordinance may be adopted with or without amendment or rejected at the meeting at which it is introduced, but the affirmative vote of at least five members shall be required for its adoption. After its adoption, the ordinance shall be published and printed as prescribed for other adopted ordinances. It shall become effective upon adoption or at such a later time as it may specify. Every emergency ordinance, except one made pursuant to Section 3, shall automatically stand repealed as of the 61st day following the date on which it was adopted, but this shall not prevent re-enactment of the ordinance in the manner specified in this section if an emergency still exists. An emergency ordinance may also be repealed by adoption of a repealing ordinance in the same manner specified in this section for adoption of emergency ordinances.

#### SECTION 17. CODES OF TECHNICAL REGULATIONS

The City Council may adopt any standard code of technical regulations by reference thereto in an adopting ordinance. The procedure and requirements governing such an adopting ordinance shall be as prescribed for ordinances generally except that:

- (1) Before any such ordinance shall be adopted, the code must be printed or typewritten and shall be presented in pamphlet form to the City Council at a regular meeting, and copies of such code shall be made available for public inspection.
- (2) The ordinance adopting such code shall not set out said code in full, but shall merely identify the same. After adoption of the ordinance, such code or codes shall be certified by the mayor and filed as permanent record in the office of the Clerk, who shall not be required to transcribe and record the same in the ordinance book as other ordinances are transcribed and recorded.

Copies of any adopted code of technical regulations shall be made available by the City Clerk for distribution or for purchase at a reasonable price.

## SECTION 18. AUTHENTICATION AND RECORDING; CODIFICATION; PRINTING

(a) Authentication and Recording. The City Clerk shall authenticate by signing and shall record in full in a properly indexed book kept for the purpose all ordinances and resolutions adopted by the City Council.

(b) Codification. One year after Charter is in effect and at least every four years after, the City Council shall provide for the preparation of a general codification of all City ordinances and resolutions having the force and effect of the law. The general codification shall be adopted by the Council by ordinance and shall be published promptly in bound or loose-leaf form, together with the Charter and other laws of the state of West Virginia, and such codes as the Council may specify. This compilation shall be known and cited officially as the Shinnston City Code. Copies of the code shall be furnished to City officers, placed in libraries and public offices for free public reference and made available for purchase by the public at a reasonable price fixed by the Council.

(c) Printing of Ordinances and Resolutions. The City Council shall cause each ordinance and resolution having the force and effect of law and each amendment to this Charter be printed promptly following its adoption, and printed ordinances, resolutions and Charter amendments shall be distributed or sold to the public at reasonable prices as fixed by the Council. Following publication of the first Shinnston City Code and at all times thereafter, the ordinances, resolutions and Charter amendments shall be printed in substantially the same style as the code currently in effect and shall be suitable in form for integration therein. The Council shall make such further arrangements as it deems desirable with respect to reproduction and distribution of any current changes in or addition to the provisions of the constitution and other laws of the state of West Virginia, or the codes of technical regulations and other rules and regulations included in the code.

## SECTION 19. ADMINISTRATIVE OFFICES AND DEPARTMENTS

There shall be in the City government a police department, a fire department, a department of public works, and such other administrative departments as may by ordinance be created by the Council. The City Manager shall appoint as the head of each department, except the fire department, so long as it remains a volunteer entity, a chief, supervisor or director, who shall be responsible for the efficient administration of the department, subject to the supervision and control of the Manager. Except as otherwise provided by this Charter or by general law, the head of a department need not be a resident of the City or state at the time of his/her appointment, but within six months of his/her appointment to office shall become a resident of and shall reside in Harrison County, West Virginia.

The Council may by ordinance create, combine, change or abolish offices, departments or agencies, other than those established by this Charter. Except as otherwise provided in this Charter, the Council may assign additional functions or duties to any office, department or agency created by it or by this Charter, but may not discontinue or transfer any function or duty assigned by this Charter to any particular office, department or agency.  
(Amended 1-31-00)

## SECTION 20. FIRE DEPARTMENT; SERVICE FEES

Pursuant to West Virginia Code 8-15-1 et seq., the Shinnston Volunteer Fire Department shall be designated to provide the City with fire protection services for the City of Shinnston, so long as it is a viable, operating department. If it shall cease to be operational, then the City shall provide fire protection by establishing a fire department in accordance with Section 19 of this Charter.

**SECTION 21. PERSONNEL SYSTEM**

(a) **Merit Principle.** All appointments and promotions of City officers and employees shall be made solely on the basis of merit and fitness demonstrated by a valid and reliable examination or other evidence of competence.

(b) **Merit System.** Consistent with all applicable federal and state laws the City Council shall provide by ordinance, for the establishment, regulation and maintenance of a merit system governing personnel policies necessary to effective administration of the employees of the City's offices and agencies, including but not limited to any pay plans, examinations, force reduction, removals, working conditions, provisional and exempt appointments, in-service training, grievances and relationships with employee organizations.

**SECTION 22. CITY ATTORNEY**

The City attorney shall be a member in good standing of the West Virginia State Bar. He/she shall be appointed by the City Manager to serve for an indefinite term, only with the consent and ratification of Council. The City Attorney shall be a contracted employee. He/she shall perform all duties and exercise all powers which shall be conferred upon him/her by any ordinance or resolution of the Council and, except as otherwise provided in this Charter, he/she shall have the power and it shall be his/her duty to:

- (1) Act as legal adviser and counsel for the City Council and for all administrative boards and officers thereof with respect to their official duties. Upon request, he/she shall furnish to the City Council or to such officers a written opinion upon any question concerning their respective powers and duties.
- (2) Prosecute and defend all suits for or against the City, and prepare all ordinances and all contracts, bonds or other writings in which the City is concerned, and endorse on each his/her approval of the form and correctness thereof.
- (3) Prosecute all cases brought before or appealed from the police court, and perform the same duties so far as they are applicable thereto as are required by law of prosecuting attorneys.

Whenever the exigencies of the business of the City require such action, the City Manager shall have the right to employ special counsel to assist the City attorney.

**SECTION 23. PLANNING AND ZONING COMMISSION**

The City Council shall establish a Planning, and Zoning Commission having five members whose purpose shall be to promote the orderly development of the municipality's governmental units and its environs. The members of this commission must be residents of the municipality and shall include representatives of business, industry and labor. One member of the commission shall also be a member of City Council and one member shall be the City Manager, who will serve as an ex-officio, non-voting member. The terms of these two members shall be co-extensive with the term of office to which they have been elected or appointed, unless the City Council and City Manager at the first regular meeting of the commission each year designate others to serve as the municipality's representatives. The City Manager will nominate one member of Council and four residents of the City who are qualified by knowledge and experience in matters pertaining to the development of the municipality, to serve on the commission. The appointees must then be confirmed by City Council. The appointments of the four residents will be one member for one year, one member for two years

and two members for three years respectively when first selected. Thereafter members shall be selected for terms of three years each. A member may be reappointed to his/her position on the commission. The commission shall fix the time for holding regular meetings, but it shall meet at least once in the months of January, April, July and October. All activities of the commission will be consistent with Chapter eight, Article twenty-four of the official Code of West Virginia.

#### SECTION 24. POLICE JUDGE

There shall be a police judge appointed by the City Manager, only with the consent and ratification of Council. He/she shall have criminal jurisdiction over the violation of all ordinances of the City. He/she shall hold Police Court at such times and places as may be determined by him/her. He/she shall give bond with security as required of a police judge, for the holding and proper disbursement of all sums which may come to him/her in his/her official capacity.

#### SECTION 25. CHIEF OF POLICE

The City Manager shall appoint a qualified individual to the office of chief of police.

#### SECTION 26. BOARD OF PARKS AND RECREATION

With the concurrence of Council, the City Manager will appoint five residents of the City to serve on a Board of Parks and Recreation. The first appointments under this Charter shall be as follows: two members will be appointed for two year terms, two members will be appointed for four year terms and one member will be appointed for a six year term. Thereafter, each member will serve for a six year term and may be reappointed. The Board will develop a plan for the improvement of all recreational facilities and submit a corresponding budget request to the City Manager annually. This plan and budget will become part of the overall plan and budget for the City. The Board will be required to develop rules, regulations and operating procedures for all recreational facilities. The Board shall be required to meet at least once a month on a regularly scheduled date which they themselves shall determine. An appointee shall forfeit his/her office if he/she fails attend three consecutive regularly scheduled meetings of the Board without being excused by the City Manager.

#### SECTION 27. ENFORCEMENT AGENCY FOR THE REPAIR, CLOSING, DEMOLITION OF DWELLINGS OR BUILDINGS UNFIT FOR HUMAN HABITATION

The City Council shall enact ordinances regulating the repair, closing, demolition, etc. of dwellings or buildings unfit for human habitation consistent with the Chapter 8, Article 12, Section 16 of the West Virginia Code. The enforcement agency shall consist of the City Manager, a municipal engineer or building inspector, and one member at large to be selected by and to serve at the will and pleasure of the City Manager. The ranking health officer and fire chief shall serve as ex-officio members of the enforcement agency. The enforcement agency shall be known as the Building Commission.

## SECTION 28. BUDGET AND BUDGET MESSAGE; PUBLIC HEARING; ADOPTION AND REVISION

The fiscal and budget year of the City shall begin on the 1st day of July and shall end on the 30th day of June of each calendar year. The budget for each succeeding fiscal year submitted and amended as provided in this section, shall be adopted by the Council not later than the 28th day of March of the then current fiscal year.

Not later than the 1st day of March of each year, the City Manager shall submit to the Council a budget for the next fiscal year, together with a budget message which shall contain an outline of the proposed financial operation of the City for the coming year, shall describe the important features of the budget plan, and shall set forth the reasons for the salient changes from the previous year in cost and revenue items. In respect to proposed appropriations for capital improvements, there shall be included in the budget message, or attached thereto, a program and schedule of capital projects recommended by the City Planning Commission for the next five fiscal years. A copy of the budget and budget message, and all supporting documents, shall at the same time the budget is submitted to the Council be filed with the City Clerk as a public record, and shall be available for inspection by any interested person.

The budget shall provide a complete financial plan for the budget year, including any estimate of any anticipated surplus at the beginning of the year, an estimate of anticipated revenues from all sources during the year, and a detailed estimate of proposed appropriations for expenditure during the year by each office, department, and agency of the City. The total of appropriations of the budget as submitted by the Manager or as adopted by the Council shall not exceed the sum of estimated revenues and surplus.

At a regular or special meeting of Council between the 7th and 28th days of March of each year, there shall be a public hearing on the proposed budget, at which time all interested persons shall be given an opportunity to be heard for or against any estimate of revenue or any item of appropriation contained therein. At said meeting, Council shall ascertain the fiscal condition of the corporation, and make an itemized statement setting forth:

- (1) The amount due and the amount that will become due and collectible from every source during the current fiscal year except from the levy of taxes to be made for the year;
- (2) The interest, sinking fund and amortization requirements for the fiscal year of bonded indebtedness, legally incurred upon a vote of the people as provided by law, prior to the adoption of the tax limitation amendment;
- (3) Other contractual indebtedness, not bonded, legally incurred prior to the adoption of the tax limitation amendment, owing by the Municipality;
- (4) All other expenditures to be paid out of the receipts of the Municipality for the current fiscal year with proper allowance for delinquent taxes, exonerations, and contingencies;
- (5) The total amount necessary to be raised by the levy of taxes for the current fiscal year;
- (6) The proposed rate of levy in cents on each one hundred dollars assessed valuation of each class of property; and
- (7) The separate and aggregate assessed valuations of real, personal and public utility property in each class in the Municipality.

The City Clerk of the Municipality shall forward immediately a certified copy of the statement to the Tax Commissioner, and shall publish the statement forthwith. The session shall then stand adjourned until the 3rd Tuesday in April, at which time it shall reconvene.

The Council shall, when it reconvenes upon the 3rd Tuesday in April, hear and consider any objections made orally or in writing by the City Attorney, by the Tax Commissioner or his/her representative, or by any taxpayer of the City, to the estimate and proposed levy, or to any item thereof. Council shall enter of record any objections so made and the reasons and grounds therefor. The Council, after hearing objections, shall reconsider the proposed original estimate and proposed rates of levy, and if the objections are well taken, shall correct the estimate and levy. No such estimate and levy, however, shall be entered until the same shall have first been approved, in writing, by the Tax Commissioner. When the same shall have been approved by the Tax Commissioner, the Clerk shall then enter the estimate and levy, together with the order of the Council approving them and the written approval of the Tax Commissioner thereof, in the proper record book.

In addition to the provisions set forth herein, Council shall be subject to the requirements contained in section one, article eight, chapter eleven, et seq. of the Official Code of West Virginia, as amended, as the same may apply to municipal corporations.

After the beginning of the fiscal year, the Council shall make only such changes in the budget as may be required because of action taken by the State Tax Commissioner in respect to the proposed tax levy of the City or as may be permitted or required by general law. Thereafter, the Council shall make no other changes in the budget unless permitted or required to do so by general law. After the final adoption of the budget, the several amounts stated therein as proposed appropriation shall be appropriated to the specified objects and purposes. Except as otherwise provided by general law, the City Manager may at any time transfer any unencumbered appropriation balance of an appropriated line item from that line item to another line item with the same account category established by the State Tax Commissioner, subject to the approval of City Council. No transfers from one account category to another may be made without revision of the budget and approval by the Tax Commissioner pursuant to Chapter 11, Article 8, Section 1, et seq.

For the purposes of accounting for the budget, the modified accrual basis of accounting will be used, or any other basis of accounting required by the State Tax Commissioner. The ending unencumbered balance at the end of the fiscal year shall be the starting unencumbered balance for the new fiscal year.

In addition to the foregoing, Council and the City Manager shall comply with all applicable federal and state laws which in any way relate to the governing of the financial affairs of a municipal corporation. (Amended 1-31-00)

## SECTION 29. PROHIBITIONS - GENERAL

### (a) Activities Prohibited.

- (1) No person shall be appointed to or removed from, or in any way favored or discriminated against with respect to any City position or appointive City administrative office because of race, gender, age, handicap, religion, country of origin or political affiliation.
- (2) No person shall willfully make any false statement, certificate, mark, rating or report in regard to any test, certification or appointment under the provisions of this Charter or the rules and regulations made thereunder, or in any manner commit or attempt to commit any fraud preventing the impartial execution of such provisions, rules and regulations.

- (3) No person who seeks appointment or promotion with respect to any City position or appointive City administrative office shall directly or indirectly give, render or pay any money, service or other valuable thing to any person for or in connection with his or her test, appointment, proposed appointment, promotion or proposed promotion.
- (4) No person shall knowingly or willfully solicit or assist in soliciting any assessment, subscription or contribution for any political party or political purpose to be used in conjunction with any City election from any City employee.
- (5) No City employee shall knowingly or willfully solicit or receive any contribution to the campaign funds of any political party or committee to be used in a City election or to campaign funds to be used in support of or opposition to any candidate for election to City office or City ballot issue. Further, no City employee shall solicit votes for any candidate for election to City office or City ballot issue. Further, no City employee shall manage the campaign of or participate in fund-raising activities for any candidate for City office. Nor shall a City employee work at the polls for a municipal election. This section shall not be construed to limit any person's right to exercise rights as a citizen to express opinions or to cast a vote nor shall it be construed to prohibit any person from active participation in political campaigns at any other level of government.

(b) Penalties. Any person convicted of a violation of this section shall be ineligible for a period of five years following such conviction to hold any City office or position and if an officer or employee of the City, shall immediately forfeit his or her office or position. The City Council shall establish by ordinance such further penalties as it may deem appropriate.

#### SECTION 30. CHARTER AMENDMENTS

Amendments to this Charter shall be made in accordance with the general laws of the State of West Virginia.

#### SECTION 31. SANITARY BOARD

The Sanitary Board of the City in existence on the date this Charter Board is adopted shall be continued. The Sanitary Board shall have the powers and shall perform the duties prescribed by general law with respect to the construction, operation and maintenance of sewage disposal facilities. The Sanitary Board shall be composed of the City Manager, who shall be the Chairman of the Board, two other persons appointed by the Council.  
(Amended 1-31-00)

#### SECTION 32. DISCRIMINATORY PRACTICES PROHIBITED

No person holding any appointive office or employment in the service of the City, or seeking appointment thereto, shall be appointed, promoted, demoted or removed, or in any way favored or discriminated against because of political opinions or affiliations, or because of race, color or religious beliefs, or gender, handicap, or country of origin.

#### SECTION 33. SOCIAL SECURITY

The City Council, the sanitary board, and every other board or commission provided for in this Charter, or hereafter created by Council pursuant to general law, shall in the manner prescribed by law provide social security coverage for all eligible City officers and employees.

#### SECTION 34. OATH OR AFFIRMATION OF OFFICE

Before taking office every officer of the City and the head of each administrative department shall take the oath or affirmation required by section five, article four of the constitution of the state.

#### SECTION 35. EFFECT OF CHARTER ON EXISTING ORDINANCES AND ADMINISTRATIVE RULES AND REGULATIONS

All existing ordinances and all existing administrative rules, regulations and practices, if not inconsistent or in conflict with this Charter, shall continue in full force and effect until repealed or modified by the Council or other competent authority of the City. All ordinances, rules, regulations and practices that are inconsistent or in conflict with this Charter shall, unless sooner repealed or modified, continue in full force and effect for a period of sixty days only, and at the end of that period shall to the extent of such inconsistency or conflict be of no further force or effect.

#### SECTION 36. REFERENCE TO GENERAL LAW

A reference contained in this Charter to a provision of general law shall be construed to mean the provision as it now exists or as it may hereafter be amended. Where additional sections are added to the subject matter of a provision of general law referred to in this Charter, the reference shall include such additional sections.

#### SECTION 37. MEETINGS AND OTHER ACTS ON LEGAL HOLIDAYS

Whenever under the provisions of this Charter it is required that a meeting be held or that an act be done on a date which is a legal holiday, the meeting shall be held or the act shall be done on the next day not a legal holiday.

#### SECTION 38. SEPARABILITY

The provisions of this Charter shall be construed as severable, and should any provision be held unconstitutional, or for any other reason invalid, such holding shall in no way affect any other provision thereof.

#### SECTION 39. ELECTIONS

The City Clerk shall prepare and furnish printed forms for certificates of announcement substantially in the form set forth and authorized by ordinance of the City Council. The certificate of announcement is defined as and shall be the form on which qualified persons make official such person's candidacy for Council in the next City election.

Regular City elections shall be held on the 9th day of June, one thousand nine hundred ninety-eight, and on the first Tuesday in June of every second year thereafter. Special elections shall be held at such times as may be fixed by the Council in accordance with the provisions of this Charter and of general law.

The ballot to be used in City elections shall be prepared by the Council and shall have set forth thereon a division the names of all properly nominated candidates for election to membership on the Council by ward, and at-large, as is provided hereunder. In the printing of the ballots, the position of the names of the candidates shall be in like manner as is provided by general law for the printing of official primary ballots. The ballots shall state that the election is non-partisan and shall clearly indicate the number of candidates for each office for whom the voter is entitled to vote. At least ten days before the election a sample ballot showing the names of all properly nominated candidates shall be published once in two newspapers circulated in the City in the same manner as is provided by law for the publication of the list of nominations in a general election.

Except as otherwise provided in this Charter, City elections shall be conducted and the result determined and certified in accordance with the provisions of general law with respect to primary, general and special elections, so far as they are applicable, except that the duties devolving upon the county court and the Clerk thereof under the general laws for conducting elections shall be performed by the City Council and the City Clerk. The Council shall appoint three commissioners and two Clerks to serve as election officials in each precinct in the City. At least three days before the date of the election the City Clerk shall procure from the Clerk of the county court the necessary registration records and other election supplies and shall deliver them together with the ballots to the election officials. The election officials shall as soon as possible after the closing of the polls on election day return to the City Clerk the ballots, tally sheets, certificates of the result of the election, registration records, ballot boxes and other election supplies. On the first Monday following the election the Council shall canvass the returns of the election and declare the result. In the case of a contest the Council shall be the judge of the election and qualifications of all City officials.

The cost incurred for such election shall be paid out of the general City revenues. The costs of conducting special elections shall be paid out of general City revenues.

In the event any candidate requests a recount of the votes in any election, such recount is to be paid by the person making such request, and the cost of such recount is to be set by Council prior to each election according to state law.

#### SECTION 40. EFFECTIVE DATE OF CHARTER

For the purposes of extending the terms of office of present elective officers, of the election of new officers under this Charter, and the operation of all other provisions of Section 41 hereof, this Charter shall be in effect from and after the date of its adoption by the voters of the City. For all other purposes it shall be in effect on and after the first day of July next following the first election held under its provisions.

#### SECTION 41. TRANSITION

(a) Schedule. The first election of officers under this Charter shall be held on June 9, 1998 in conjunction with the election regarding the approval of this Charter. Members of Council elected on June 9, 1998 shall take office on July 1, 1998 as specified in Section 4 of this Charter.

(b) Hiring of City Manager. At the time the Charter is approved by the voters, the City Council will commence the search for qualified candidates for City Manager by advertising the position in a professional journal and a newspaper of general circulation in Harrison County, West Virginia. At the first regular meeting of City Council under this Charter, on July 1, 1998, City Council shall appoint an interim City Manager. Thereafter, City Council shall scrutinize resumes, interview candidates and select the most qualified individual for the position of City Manager. City Council shall appoint a City Manager by August 1, 1998.

(c) Continuance of Office or Employment. No City administrative officer shall continue in office after the effective date of this Charter, unless such office is continued or provided for by this Charter. Except with respect to the position of City Clerk, no non-elected City employee shall lose their position of employment solely as a result of the adoption of this Charter unless such position is specifically eliminated hereby. Nothing contained herein shall prohibit the Council from contracting with or employing former City officers or employees, on a temporary basis, to provide for the orderly and efficient transfer of duties under, and implementation of, this Charter. Such contract or employment shall not constitute a conflict of interest.

(d) City Clerk. The non-elected position of City Clerk under the previous Charter is materially distinguishable from the position of City Clerk under this Charter. Therefore, the position of City Clerk under the previous Charter is specifically eliminated and the position of City Clerk under this Charter is considered a new position. City Council shall appoint an interim City Clerk by July 1, 1998. City Council shall appoint a City Clerk by August 1, 1998.

(e) Former Elected Officers. The members of Council representing the first, second, third and fourth wards and the Mayor and Recorder elected in June, 1996 shall serve until their successors are elected and qualified and take office on July 1, 1998.

## OATH OF OFFICE

*I, Kathleen Panek, do solemnly swear or affirm that I will support the Constitution of the United States, the Constitution of the State of West Virginia, and all the laws and ordinances of the City of Shinnston, now in effect, and those that may be placed into effect, and perform the duties of City Clerk to the best of my ability and judgment.*

*So help me God,*

*Kathleen Panek*  
\_\_\_\_\_

*Subscribed and acknowledged to before  
me this, the 1<sup>st</sup> day of July, 2010*

*Sammy J. DeMarco*  
\_\_\_\_\_

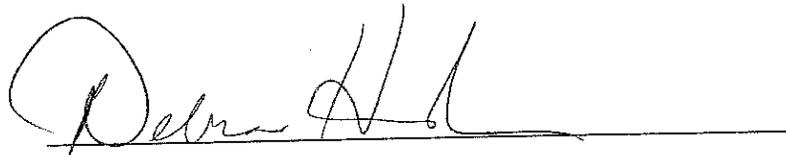
*Sammy J. DeMarco, Mayor*

Term: At will and pleasure of Council

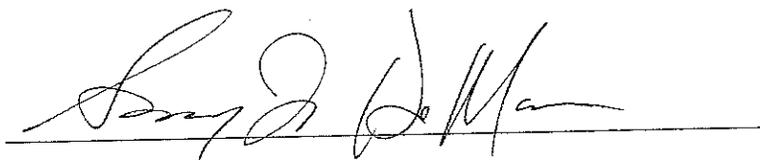
## OATH OF OFFICE

*I, Debra Herndon, do solemnly swear or affirm that I will support the Constitution of the United States, the Constitution of the State of West Virginia, and all the laws and ordinances of the City of Shinnston, now in effect, and those that may be placed into effect, and perform the duties of City Manager to the best of my ability and judgment.*

*So help me God,*

A handwritten signature in black ink, appearing to read "Debra Herndon", written over a horizontal line.

*Subscribed and acknowledged to before  
me this, the 1<sup>st</sup> day of July, 2010*

A handwritten signature in black ink, appearing to read "Sammy J. DeMarco", written over a horizontal line.

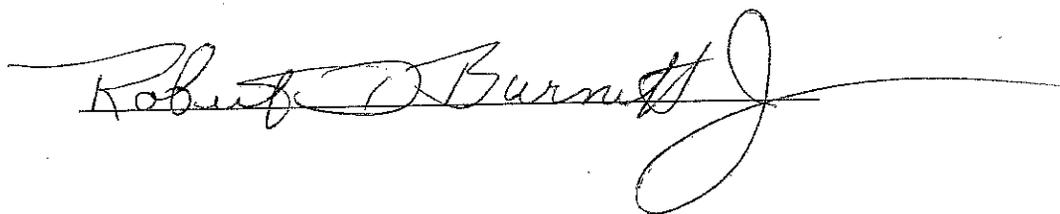
*Sammy J. DeMarco, Mayor*

Term: With employment - at will and pleasure of Council

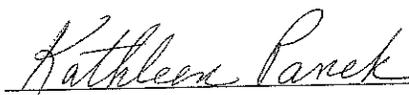
## **OATH OF OFFICE**

*I, Robert D. Burnett, Jr., do solemnly swear or affirm that I will support the Constitution of the United States, the Constitution of the State of West Virginia, and all the laws and ordinances of the City of Shinnston, now in effect, and those that may be placed into effect, and perform the duties of Vice-Mayor to the best of my ability and judgment.*

*So help me God,*

A handwritten signature in black ink that reads "Robert D. Burnett, Jr." with a large, decorative flourish at the end.

*Subscribed and acknowledged to before  
me this, the 1<sup>st</sup> day of July, 2010*

A handwritten signature in black ink that reads "Kathleen Panek" written over a horizontal line.

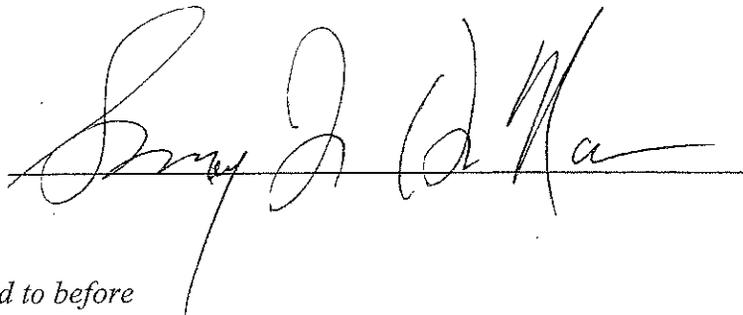
*Kathleen Panek, City Clerk*

Term: 2008-2012

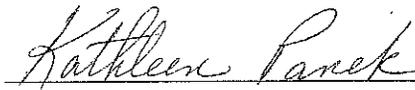
## **OATH OF OFFICE**

*I, Sammy J. DeMarco, do solemnly swear or affirm that I will support the Constitution of the United States, the Constitution of the State of West Virginia, and all the laws and ordinances of the City of Shinnston, now in effect, and those that may be placed into effect, and perform the duties of Mayor to the best of my ability and judgment.*

*So help me God,*

A handwritten signature in cursive script, appearing to read "Sammy J. DeMarco", written over a horizontal line.

*Subscribed and acknowledged to before  
me this, the 1<sup>st</sup> day of July, 2010*

A handwritten signature in cursive script, appearing to read "Kathleen Panek", written over a horizontal line.

*Kathleen Panek, City Clerk*

Term: 2010-2012

## OATH OF OFFICE

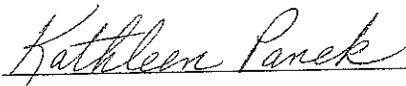
*I, Lance Vernon, do solemnly swear or affirm that I will support the Constitution of the United States, the Constitution of the State of West Virginia, and all the laws and ordinances of the City of Shinnston, now in effect, and those that may be placed into effect, and perform the duties of Council Member to the best of my ability and judgment.*

*So help me God,*



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*Subscribed and acknowledged to before  
me this, the 1<sup>st</sup> day of July, 2010*



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*Kathleen Panek, City Clerk*

Term: 2010-2014

## OATH OF OFFICE

*I, Mary Ann Ferris, do solemnly swear or affirm that I will support the Constitution of the United States, the Constitution of the State of West Virginia, and all the laws and ordinances of the City of Shinnston, now in effect, and those that may be placed into effect, and perform the duties of Council Member to the best of my ability and judgment.*

*So help me God,*

*Mary Ann Ferris*  
\_\_\_\_\_

*Subscribed and acknowledged to before  
me this, the 1<sup>st</sup> day of July, 2010*

*Kathleen Panek*  
\_\_\_\_\_

*Kathleen Panek, City Clerk*

Term: 2008-2012

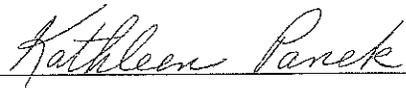
## **OATH OF OFFICE**

*I, Rodney Strait, do solemnly swear or affirm that I will support the Constitution of the United States, the Constitution of the State of West Virginia, and all the laws and ordinances of the City of Shinnston, now in effect, and those that may be placed into effect, and perform the duties of Council Member to the best of my ability and judgment.*

*So help me God,*

A handwritten signature in cursive script that reads "Rodney Strait". The signature is written in dark ink and is positioned above a solid horizontal line.

*Subscribed and acknowledged to before  
me this, the 1<sup>st</sup> day of July, 2010*

A handwritten signature in cursive script that reads "Kathleen Panek". The signature is written in dark ink and is positioned above a solid horizontal line.

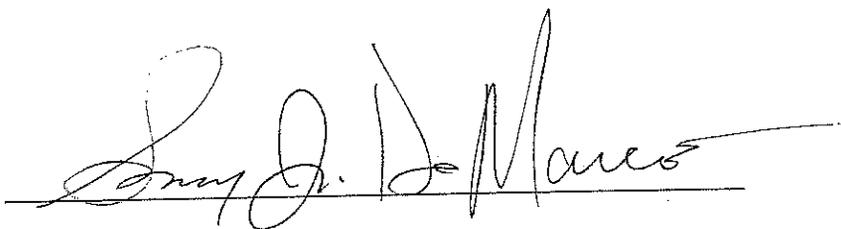
*Kathleen Panek, City Clerk*

Term: 2010-2014

## OATH OF OFFICE

*I, Sammy J. DeMarco, do solemnly swear or affirm that I will support the Constitution of the United States, the Constitution of the State of West Virginia, and all the laws and ordinances of the City of Shinnston, now in effect, and those that may be placed into effect, and perform the duties of Council Member to the best of my ability and judgment.*

*So help me God,*



A handwritten signature in cursive script, reading "Sammy J. DeMarco", written over a horizontal line.

*Subscribed and acknowledged to before  
me this, the 1<sup>st</sup> day of July, 2010*



A handwritten signature in cursive script, reading "Kathleen Panek", written over a horizontal line.

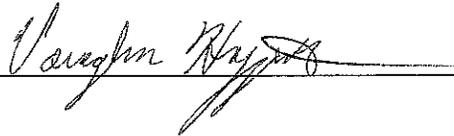
*Kathleen Panek, City Clerk*

Term: 2010-2014

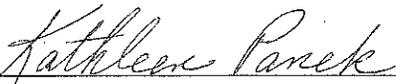
## OATH OF OFFICE

*I, Vaughn Haggerty., do solemnly swear or affirm that I will support the Constitution of the United States, the Constitution of the State of West Virginia, and all the laws and ordinances of the City of Shinnston, now in effect, and those that may be placed into effect, and perform the duties of Council Member to the best of my ability and judgment.*

*So help me God,*

  
\_\_\_\_\_

*Subscribed and acknowledged to before  
me this, the 1<sup>st</sup> day of July, 2010*

  
\_\_\_\_\_

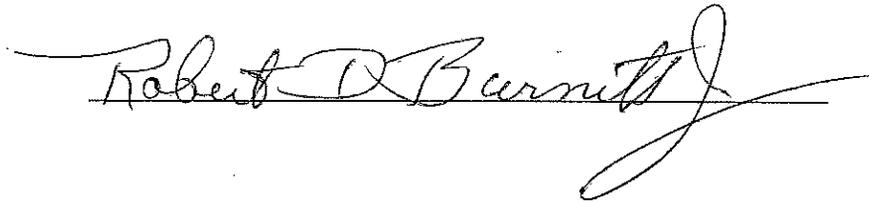
*Kathleen Panek, City Clerk*

Term: 2008-2012

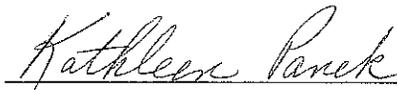
## ***OATH OF OFFICE***

*I, Robert D. Burnett, Jr., do solemnly swear or affirm that I will support the Constitution of the United States, the Constitution of the State of West Virginia, and all the laws and ordinances of the City of Shinnston, now in effect, and those that may be placed into effect, and perform the duties of Council Member to the best of my ability and judgment.*

*So help me God,*

A handwritten signature in cursive script that reads "Robert D. Burnett, Jr." The signature is written in black ink and is positioned above a horizontal line.

*Subscribed and acknowledged to before  
me this, the 1<sup>st</sup> day of July, 2010*

A handwritten signature in cursive script that reads "Kathleen Panek". The signature is written in black ink and is positioned above a horizontal line.

*Kathleen Panek, City Clerk*

Term: 2008-2012

## **OATH OF OFFICE**

*I, David Signorelli, do solemnly swear or affirm that I will support the Constitution of the United States, the Constitution of the State of West Virginia, and all the laws and ordinances of the City of Shinnston, now in effect, and those that may be placed into effect, and perform the duties of Council Member to the best of my ability and judgment.*

*So help me God,*

*David B. Signorelli*

*Subscribed and acknowledged to before  
me this, the 26<sup>th</sup> day of July, 2010*

*Sammy J. DeMarco*

*Sammy J. DeMarco, Mayor*

CITY OF SHINNSTON

RESOLUTION ON OPEN GOVERNMENTAL PROCEEDINGS RULES

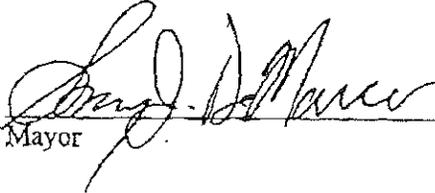
Pursuant to Chapter 6, Article 9A, Section 3 of the West Virginia Code, the Council of the City of Shinnston does hereby adopt the following rules to make available, in advance, the date, time, place and agenda of all regularly scheduled meetings of the Council, and the date, time, place and purpose of all special meetings of the Council to the public and news media (except in the case of an emergency requiring immediate action) as follows:

1. Regular Meetings. A notice shall be posted and maintained by the City Clerk at the front door or bulletin board of the City Hall of the date, time and place fixed and entered of record by Council for the holding of regularly scheduled meetings. In addition, a copy of the agenda for each regularly scheduled meeting shall be posted at the same location by the City Clerk not less than 72 hours before such regular meeting is to be held. If a particular regularly scheduled meeting is canceled or postponed, a notice of such cancellation or postponement shall be posted at the same location as soon as feasible after such cancellation or postponement has been determined.

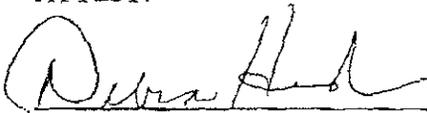
2. Special Meetings. A notice shall be posted by the City Clerk at the front door or bulletin board of the City Hall not less than 72 hours before a specialy scheduled meeting is to be held, stating the date, time, place and purpose for which such special meeting shall be held. If the special meeting is canceled, a notice of such cancellation shall be posted at the same location as soon as feasible after such cancellation has been determined.

These rules regarding notice of meetings shall replace any and all previous rules heretofore adopted by Council.

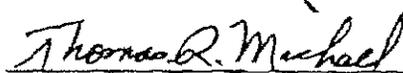
Adopted this 27 day of JUNE, 2005.

  
\_\_\_\_\_  
Mayor

ATTEST:

  
\_\_\_\_\_  
City Clerk

APPROVED AS TO FORM AND CORRECTNESS:

  
\_\_\_\_\_  
City Attorney

06/02/05  
818500.00001

ORDS SHINNSTON 09A

AMENDMENT TO THE CODIFIED CODES OF THE CITY OF SHINNSTON, WEST VIRGINIA WITH REGARD TO SEWER SERVICE RATES.

BE IT ORDAINED by the City Council of the City of Shinnston that Sewer Service Rates be AMENDED as follows:

SEWER SERVICE RATES

For the payment of the proper and reasonable expense of operation, repair, replacements, improvements, additions, betterments, extension, and maintenance of the sewer system and for the payment of the sums required to pay the principal and interest on all sewer revenue bonds as the same become due, there is hereby established a schedule of just and equitable rates, charges and penalties for the use of and services rendered by the Sanitary Board of the City of Shinnston, West Virginia, which schedule, based upon the metered amount of water supplied to the premises, where possible, but providing for a flat rate when no meter is available, shall be as follows:

RATES, RULES AND REGULATIONS FOR FURNISHING

SEWER

in the City of Shinnston, Harrison County, West Virginia

RULES AND REGULATIONS

- I. Rules and Regulations for the Government of Sewerage Utilities, adopted by the Public Service Commission of West Virginia, and now in effect, and all amendments thereto and modifications thereof hereafter made by said Commission.

APPLICABILITY

Applicable in entire territory served.

AVAILABILITY

Available for sanitary sewer service.

RATES (Base upon metered amount of water supplied)

Table with 4 columns: Rate Category, Gallons, Description, and Price per 1,000 gallons. Rows include First (2,000), Next (5,000), and Over (7,000) with corresponding rates of \$12.58, \$10.41, and \$9.84.

MINIMUM MONTHLY CHARGE

The minimum monthly charge to any user of the sewerage system shall be \$25.16.

RECEIVED 2009 JUN 5 AM 10 27 W VA PUBLIC SERVICE COMMISSION SECRETARY'S OFFICE

DELAYED PAYMENT PENALTY

The above schedule is net. On all current usage billings not paid within twenty (20) days, ten percent (10%) will be added to the net current amount unpaid. This delayed payment is not interest and is to be collected only once for each bill where it is appropriate.

TAP FEE

A tap fee of \$250.00 per tap will be charged.

SECURITY DEPOSIT

Not to exceed two-twelfths (2/12) of the average annual usage of a customer's specific customer class, or \$50.00, whichever is greater. Average residential consumption will be calculated as 4,500 gallons per month. Average commercial consumption will be calculated as 9,000 gallons per month.

Effective immediately upon passage.

Passed on 1<sup>st</sup> Reading on this 8<sup>th</sup> day of December, 2008.

Public Hearing held on this 23<sup>rd</sup> day of March, 2009.

Passed on 2<sup>nd</sup> Reading on this 25<sup>th</sup> day of May, 2009.

Effective upon substantial completion of the sewer upgrade project.

BY: Debra Herndon  
DEBRA HERNDON, CITY MANAGER

ATTEST: Kathleen G. Panek

RECEIVED  
2009 JUN 5 PM 10:27  
W VA PUBLIC SERVICE  
COMMISSION  
SECRETARY'S OFFICE

REGULAR MEETING  
CITY OF SHINNSTON, WV  
DECEMBER 8, 2008  
7:05 P.M.

The meeting was called to order by Mayor Sammy J. DeMarco, who then led the group in the *Pledge of Allegiance*. Councilpersons in attendance were Robert Burnett, Vaughn Haggerty, Rodney Strait, Mary Ann Ferris, Mary Jane Wright and David Signorelli. Also in attendance were City Manager Debra Herndon, Public Works Director Mark Mercer, Office Manager/Activities Director Emma Patterson and City Clerk Maxine Weser. Invocation was given by Rodney Strait.

**Motion** by Burnett/Haggerty-carried to accept the minutes of Regular Meeting of November 10, 2008 and Work Session of November 24, 2008.

Under Executive Reports, Mayor DeMarco reported that he had visited all 10 schools that will be on the proposed school bond. DeMarco observed many needs in the schools.

Manager Herndon submitted a written report on the departments in the City. Herndon stated she had inquired about the fuel surcharge that has been added to the garbage bill each month, due to the high cost of gasoline. Since the cost of gasoline is falling, the surcharge should be removed by March of 2009.

Steve Cain, Engineer with *Greenhorne & O'Mara* stated that the sewer project had been submitted to the Public Service Commission. Rights-of-way still need to be acquired. Cain added that approximately 46% of the project is funded with grant monies. The general consensus of Council was that the plans for the upgrade to the 10" water line need to be put into place so that it will be ready when President-elect Obama takes office on January 20, 2009. The plans are to do public works projects to jump start the economy. Cain was asked by DeMarco about the sidewalks near Dorsey Funeral Home where 2 sections of sidewalk had collapsed. The engineer stated that he and PW Director can oversee the repair and the work can be done by Shinnston's Public Works Department.

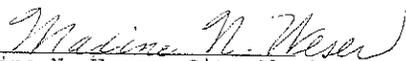
Public Works Director Mark Mercer said that customer complaints are down. He stated that he didn't know if flushing the 10" line would make the problem at Big Elm better or worse.

Office Manger/Activities Director Emma Patterson shared that the Activities Committee would not meet again until after the new year begins. Patterson shared that the group is open to ideas for new programs. The group has temporarily set the dates for Frontier Days 2009 for Wednesday, September 16 through Sunday, September 20, 2009. The City will have a supplement in the Fairmont Times-West Virginian sometime in April or May of 2009. The Brownsfield grant has been submitted. A \$14,500 request has been made to the State of WV. The state received 404 mitigation monies (for their share from FEMA) for the June 3, 2008 flood. Another grant was written to provide reflective vests to public works employees.

**Motion** by DeMarco/Burnett-carried to read by title only "Amendment to the Codified Codes of the City of Shinnston, WV with regard to Sewer Service Rates." **Motion** by DeMarco/Haggerty-carried to accept the proposed sewer rates. **Motion** by DeMarco/Burnett-carried to set the Public Hearing for the proposed sewer rates for January 12, 2009 at 7:00 P.M. immediately before the Regular Meeting. **Motion** by DeMarco/Ferris-carried to close nonessential offices of government on December 26th and give employees and extra paid day off to be taken on December 26<sup>th</sup>, if possible, or sometime before January 2, 2009.

Haggerty shared that the Shinnston Volunteer Fire Department would be having a food drive in the community on Saturday, December 13, 2008 between the hours of 10:00-11:30 A.M. to benefit the local food pantry.

**Motion** by Wright/Signorelli to go into Executive Session at 8:10 P.M. to discuss matters involving the sale or lease of property. **Motion** by Signorelli/Wright for adjournment.

  
Maxine N. Weser, City Clerk

Date Accepted by Council: January 12, 2009

  
Sammy B. DeMarco, Mayor

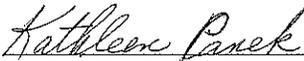
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**Special Shinnston City Council Meeting**  
**City Of Shinnston, West Virginia**  
**March 23, 2009, 2009**

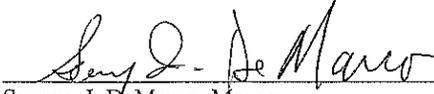
The Special Meeting of the Shinnston City Council was called to order at 7:15 P.M. in Council Chambers on Monday, March 23, 2009 by Mayor Sammy J. DeMarco. Councilpersons Bob Burnett, Vaughn Haggerty, Rodney Strait, Mary Ann Ferris, Mary Jane Wright, and David Signorelli were present. Mayor DeMarco led the Pledge of Allegiance Councilman Strait gave the Invocation. Also present were City Manager Debra Herndon and City Clerk Kathleen Panek.

Councilperson Mary Ann Ferris moved to accept the Proposed 2009-2010 Budget for General, Water, Sewer, and Coal Severance Funds. Councilperson David Signorelli seconded the motion. Motion passed unanimously.

Councilperson Rodney Strait moved to recess the meeting until Tuesday, April 21, 2009 at 7:00 P.M. Councilperson Vaughn Haggerty seconded the motion. Motion carried. The meeting recessed at 7:17 P.M.

  
\_\_\_\_\_  
Kathleen Panek, City Clerk

Date Accepted by Council: 4/13/09

  
\_\_\_\_\_  
Sammy J. DeMarco, Mayor

**Work Session Shinnston City Council  
City Of Shinnston, West Virginia  
March 23, 2009**

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The Work Session of the Shinnston City Council was called to order at 7:17 P.M. in Council Chambers on Monday, March 23, 2009 by Mayor Sammy J. DeMarco. Councilpersons Bob Burnett, Vaughn Haggerty, Rodney Strait, Mary Ann Ferris, Mary Jane Wright, and David Signorelli were present. Also present were City Manager Debra Herndon, City Clerk Kathleen Panek and Anthony Ferris.

City Manager presented information on the Excess Levy.

There was a discussion of the Wesbanco Line of credit. City Manager Herndon will consult with Vice-Mayor Bob Burnett to determine the status of the line of credit to better enable Council decisions on street paving.

There was a discussion of the new and old basketball courts.

There was a discussion of needs at the City Pool.

Council discussed having a one day retreat with a facilitator in May to create an updated Strategic Plan for the City.

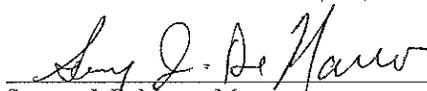
The Mayor reported compliments on the Street Sweeper. Council was informed a regular street sweeping schedule will start in April.

Session closed at 7:55 P.M.



\_\_\_\_\_  
Kathleen Panek, City Clerk

Date Accepted by Council: 4/13/09



\_\_\_\_\_  
Sammy J. DeMarco, Mayor

**Work Session Shinnston City Council**  
**City Of Shinnston, West Virginia**  
**May 25, 2009**

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The Work Session of the Shinnston City Council was called to order at 7:51 P.M. in Council Chambers on Monday, May 25, 2009 by Mayor Sammy J. DeMarco. Vice-Mayor Bob Burnett, Councilpersons Vaughn Haggerty, Rodney Strait, and Mary Ann Ferris were present. Councilpersons Mary Jane Wright, and David Signorelli were absent. Also present were City Manager Debra Herndon and City Clerk Kathleen Panek.

Petition of Citizens: Kavin Richards and Herb Richards, 8 Fleming Street, Shinnston, West Virginia stated lots are to be sold on the Menendez property. There is already a water problem. A commercial property is being proposed.

Response of City Manager Debra Herndon: If the City of Shinnston is asked to provide water, the answer is no, the City cannot. She will contact Rick McElroy to give him the alert as this property is in the County.

Jennifer Waybright, 80 Roosevelt Street, Shinnston, West Virginia requested the City to open Lowes Alley, remove trees on City property, and fill in a ravine near her new house because she is disabled and fears for her safety.

Mayor DeMarco reported he will be going to Fort Pickett in Virginia on a C-131 as part of Operation Boss-Lift in appreciation for the City allowing Officer Carlson to go with his National Guard Unit.

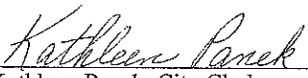
City Manager Debra Herndon reported the Federal Home Loan Bank executives from Pennsylvania, Ohio, and Delaware made a visit to Shinnston May 14. It was a follow-up and evaluation visit of the Blueprint Community. The supplement with the Fairmont Times-West Virginian and the goals list from our Strategic Plan were distributed.

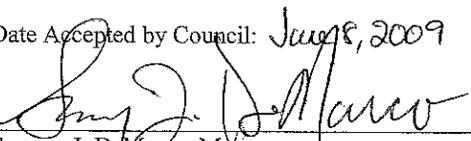
City Manager Herndon introduced Richard Barnet with whom the City has contracted to manage the Sewerage and Water Treatment Plants. He praised Council for their understanding of the issues regarding the sewer project. Council welcomed him.

There was a discussion of the workers distrust of the auto mode of the telemetry system as every time it has been used there has been a major problem between old system and new technology. The 10 inch line replacement has been put in for Stimulus money. The City cannot afford to do it otherwise.

Route 19 Sidewalk Project has three (3) proposals. All members of Council present at this meeting will study the RFP to choose an engineer.

City Manager Herndon informed Council there will have to be Budget Revisions at the next Council meeting.  
Council went into Executive Session for reason of personnel.

  
\_\_\_\_\_  
Kathleen Panek, City Clerk

Date Accepted by Council: *June 8, 2009*  
  
\_\_\_\_\_  
Sammy J. DeMarco, Mayor

6

**Special Shinnston City Council Meeting**  
**City Of Shinnston, West Virginia**  
**For Purpose of Second and Final Reading of Sewer Rate Increase**  
**May 25, 2009**

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7 The Special Meeting of the Shinnston City Council was called to order at 7:00 P.M. in  
8 Council Chambers on Monday, May 25, 2009 by Mayor Sammy J. DeMarco.  
9 Councilpersons Bob Burnett, Vaughn Haggerty, Rodney Strait, Mary Ann Ferris were  
10 present. Councilpersons Mary Jane Wright, and David Signorelli were absent. Mayor  
11 DeMarco led the Pledge of Allegiance Councilman Strait gave the Invocation. Also  
12 present were City Manager Debra Herndon and City Clerk Kathleen Panek.  
13

14 Melody Waybright, 80 Roosevelt Street, Shinnston, West Virginia objected to the sewer  
15 rate increase stating we pay twice, once with the water and again with the sewer.  
16

17 Mark Southern, 5 Riverdale Estates, Shinnston, West Virginia asked if the sewer project  
18 would just take water out. Is any of the upgrade going to do Riverdale Estates?  
19

20 Answer by Mayor DeMarco: By removing storm water, the capacity of the sewer  
21 treatment plant will be increased so Shinnston can take on new customers to help share  
22 costs.  
23

24 Statement by Mark Southern: There is a problem with raw sewerage in manholes at  
25 Riverdale Estates.  
26

27 Response from City Manager Herndon: It will be addressed.  
28

29 Public Comment was closed at 7:43 P.M.  
30

31 Vice-Mayor Burnett moved to read by title only. Mayor DeMarco seconded. Vote was  
32 unanimous.  
33

34 Vice-Mayor Burnett moved to adopt the ordinance to raise sewer rates. Councilperson  
35 Ferris seconded the motion.  
36

37 Councilperson Ferris stated that this must be done now or we will be forced to raise the  
38 rates higher later. Vice-Mayor Burnett stated For Shinnston to grow the storm water must  
39 be removed from the system. Councilperson Strait stated it is a cost of treating or the cost  
40 of removing storm water. We need to add customers and this will help add them. Mayor  
41 DeMarco stated we have been working to get grants and loans for this project. City  
42 Manager Herndon explained the second reading of this ordinance was held up in an effort  
43 to get better funding. Vote was unanimous.  
44

45 Councilperson Vaughn Haggerty moved to read the resolution for litter control by title  
46 only. Councilperson Mary Ann Ferris seconded the motion. The vote was unanimous.

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Vice-Mayor Burnett moved to accept the Resolution for Matching Fund Grant for Litter Control. Councilperson Haggerty seconded the motion. Passed unanimously.

Vice-Mayor Burnett moved to adjourn. Councilperson Haggerty seconded. Motion passed unanimously.

---

Kathleen Panek, City Clerk

Date Accepted by Council:

---

Sammy J. DeMarco, Mayor

pu ✓

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2009 JUN 5 AM 10 57  
WVA PUBLIC SERVICE  
COMMISSION  
SECRETARY'S OFFICE

# PUBLISHER'S CERTIFICATE

I, Sara V. Shingleton, Classified Manager of THE EXPONENT TELEGRAM, a newspaper of general circulation published in the City of Clarksburg, County and state aforesaid, do hereby certify that the annexed:

## HEARING TO INCREASE SEWER RATE

was published in THE EXPONENT-TELEGRAM 1 time(s) commencing on the 14th day of May 2009 and ending on the 14th day of May 2009 at the request of CITY OF SHINNSTON.

Given under my hand this 14th day of May 2009

The publisher's fee for said publication is: \$20.80 for 160 words at \$0.1300 per word per day.

Sara V. Shingleton

Classified Manager of The Exponent-Telegram



Subscribed to and sworn to before me this 14th day of May 2009.

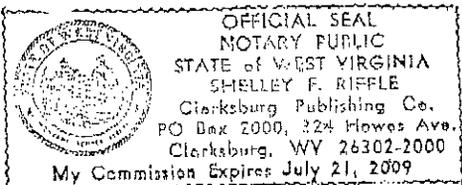
Shelley F. Riffle

Notary Public in and for Harrison County, WV

My commission expires on:

The 21 day of July 2009

NOTICE  
CITY OF SHINNSTON  
Notice is hereby given that the City of Shinnston, a municipal corporation, will hold a hearing before the final vote on a proposed ordinance, the principal object of which is the increase of sewer rates for customers of the sewer system operated by the City of Shinnston. The title of such ordinance is Amendment to the Codified Codes of the City of Shinnston, West Virginia with regard to the Sewer Service Rates. The final vote on adoption of said proposed ordinance shall be held in the Council Chambers of the City of Shinnston, 43 Bridge Street, at 7:30 o'clock (7:30 p.m.) on Monday, May 25, 2009. Interested parties may appear and be heard at such time with respect to the passage of the proposed ordinance. Copies of the proposed ordinance are available at the City Water office at 40 Main Street, Shinnston. Rates will be put into effect upon substantial completion of a sewer improvement project.



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2009 JUN 5 AM 10 57

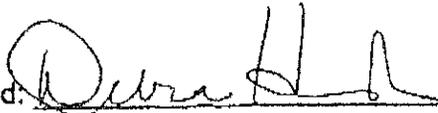
W VA PUBLIC SERVICE  
COMMISSION  
SECRETARY'S OFFICE

**AFFIDAVIT OF PUBLIC NOTICE  
BY POSTING**

State of West Virginia  
County of Harrison, to wit:

I, Debra Herndon, being first duly sworn upon my oath, do depose and say that I am the City Manager for the City/Town of Shinnston, and that I have been duly authorized by the City/Town Council to execute this affidavit of public notice by posting.

The attached public notice, substantially in the format of Tariff Form No. 12 of the Public Service Commission of West Virginia's *Rules for the Construction and Filing of Tariffs*, 150 C.S.R. 2, and as required by 150 C.S.R. 2.22.1.c.4., was first posted in a conspicuous place on the premises where the City/Town conducts its utility business with the public on May 26, 2009 (This date must be the first day after passage of the municipal ordinance.) and remained posted until July 1, 2009 (This date must be at least thirty days after the passage of the municipal ordinance.).

Signed: 

Taken, subscribed and sworn to before me in said county this \_\_\_ day of \_\_\_\_\_, 200\_\_.  
My commission expires \_\_\_\_\_.

\_\_\_\_\_  
Notary Public

RECEIVED

2009 JUN 5 AM 10 57

Tariff Form No. 12  
(Tariff Rule 44)

W VA PUBLIC SERVICE COMMISSION PUBLIC NOTICE OF CHANGE IN RATES BY MUNICIPALITIES

NOTICE is hereby given that City of Shinnston (name of utility) public utility, has adopted by ordinance of May 25, 2009 (date) a tariff containing increased rates, tolls and charges for furnishing Sewer (type of utility service) service to 1021 (number of customers) customers at City of Shinnston (name localities) in the County(ies) of Harrison

The proposed increased rates and charges will become effective on substantial completion (date) of project unless otherwise ordered by the Public Service Commission and will produce approximately \$ 177,391.00 annually in additional revenue, an increase of 38.6 %. The average monthly bill for the various classes of customers will be changed as follows:

	(\$)	INCREASE	INCREASE (%)
Residential	\$	<u>          </u>	<u>38.6</u> %
Commercial	\$	<u>          </u>	<u>38.6</u> %
Industrial	\$	<u>          </u>	<u>38.6</u> %
Resale	\$	<u>          </u>	<u>38.6</u> %
Other	\$	<u>          </u>	<u>38.6</u> %

Resale customers of City of Shinnston (name of utility) include None  
(list all resale customers by name).

The increases shown are based on averages of all customers in the indicated class. Individual customers may receive increases that are greater or less than average. Furthermore, the requested rates and charges are only a proposal and are subject to change (increases or decreases) by the Public Service Commission in its review of this filing. The Commission shall review and approve or modify the increased rates only upon the filing of a petition within thirty (30) days of the adoption of the ordinance changing said rates or charges, by:

- (1) Any customer aggrieved by the changed rates or charges who presents to the Commission a petition signed by not less than twenty-five percent of the customers served by such municipally operated public utility; or
- (2) Any customer who is served by a municipally operated public utility and who resides outside the corporate limits and who is affected by the change in said rates or charges and who presents to the Commission a petition alleging discrimination between customers within and without the municipal boundaries. Said petition shall be accompanied by evidence of discrimination; or
- (3) Any customer or group of customers who are affected by said change in rates who reside within the municipal boundaries and who present a petition to the Commission alleging discrimination between said customer or group of customers and other customers of the municipal utility. Said petition shall be accompanied by evidence of discrimination.

All petitions should be addressed to the Executive Secretary, Public Service Commission of West Virginia, 201 Brooks Street, P. O. Box 812, Charleston, West Virginia 25323.

A complete copy of the proposed rates, as well as a representative of the utility to provide any information requested concerning it, is available to all customers, prospective customers, or their agents at any of the following offices of the utility.

40 Main Street Shinnston

A copy of the proposed rates is available for public inspection at the office of the Executive Secretary of the Public Service Commission at 201 Brooks Street, P. O. Box 812, Charleston, West Virginia 25323.

POST

ORDS SHINNISTON 09A ✓

# PUBLISHER'S CERTIFICATE

I, Sara V. Shingleton, Classified Manager of THE EXPONENT TELEGRAM, a newspaper of general circulation published in the City of Clarksburg, County and state aforesaid, do hereby certify that the annexed:

## CHANGE IN RATES

was published in THE EXPONENT-TELEGRAM 2 time(s) commencing on the 10th day of June 2009 and ending on the 17th day of June 2009 at the request of CITY OF SHINNSTON. Given under my hand this 17th day of June 2009

The publisher's fee for said publication is: \$158.57 for 697 words at \$0.2275 per word.

Sara V. Shingleton  
Classified Manager of The Exponent-Telegram



Subscribed to and sworn to before me this 17th day of June 2009.

Shelley F. Riffle  
Notary Public in and for Harrison County, WV

My commission expires on: The 21 day of July 2019

### PUBLIC NOTICE OF CHANGE IN RATES BY MUNICIPALITIES

NOTICE is hereby given that City of Shinnston public utility, has adopted by ordinance on June 8, 2009, a tariff containing increased rates, tolls and charges for furnishing sewer service to 1,021 customers at Shinnston in the County of Harrison. The proposed increased rates and charges will become effective on substantial completion of project unless otherwise ordered by the Public Service Commission and will produce approximately \$177,391.00 annually in additional revenue, an increase of 38.6%. The average monthly bill for the various classes of customers will be changed as follows:

	INCREASE	INCREASE (%)
Residential		38.6%
Commercial		38.6%
Industrial		38.6%
Retail		38.6%
Other		38.6%

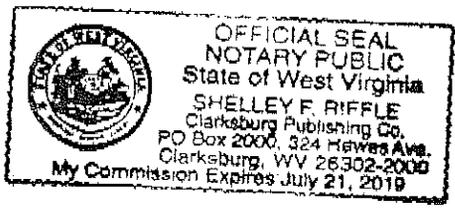
Retail customers of City of Shinnston include NONE. The increases shown are based on averages of all customers in the indicated class. Individual customers may receive increases that are greater or less than average. Furthermore, the requested rates and charges are only a proposal and are subject to change (increases or decreases) by the Public Service Commission in its review of this filing. The Commission shall review and approve or modify the increased rates only upon the filing of a petition within thirty (30) days of the adoption of the ordinance changing said rates or charges by:

- (1) Any customer aggrieved by the changed rates or charges who presents to the Commission a petition signed by not less than twenty-five percent of the customers served by such municipality operated public utility; or
  - (2) Any customer who is served by a municipally operated public utility and who resides outside the corporate limits and who is affected by the change in said rates or charges and who presents to the Commission a petition alleging discrimination between customers within and without the municipal boundaries. Said petition shall be accompanied by evidence of discrimination; or
  - (3) Any customer or group of customers who are affected by said change in rates who resides within the municipal boundaries and who present a petition to the Commission alleging discrimination between said customer or group of customers and other customers of the municipal utility. Said petition shall be accompanied by evidence of discrimination.
- All petitions should be addressed to the Executive Secretary, Public Service Commission of West Virginia, 201 Brooks Street, P.O. Box 812, Charleston, West Virginia 25323.

A complete copy of the proposed rates, as well as a representative of the utility to provide any information requested concerning it, is available to all customers, prospective customers, or their agents at any of the following offices of the utility:

40 MAIN STREET, SHINNSTON

A copy of the proposed rates is available for public inspection at the office of the Executive Secretary of the Public Service Commission at 201 Brooks Street, P.O. Box 812, Charleston, West Virginia 25323.



**NOTICE OF PUBLIC HEARING ON THE CITY OF SHINNSTON BOND ORDINANCE**

A public hearing will be held on the following-entitled Ordinance at a special meeting of the Council of the City of Shinnston (the "City") to be held on Monday, September 27, 2010, at 7:00 p.m. at the City Hall, Shinnston, West Virginia, and at such hearing, any person interested may appear before the City and present protests, and all protests and suggestions shall be heard by the City and it shall then take such actions as it shall deem proper in the premises upon an Ordinance entitled:

**CITY OF SHINNSTON ORDINANCE AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF CERTAIN ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO THE EXISTING PUBLIC SEWERAGE FACILITIES OF THE CITY OF SHINNSTON AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED THEREOF, THROUGH THE ISSUANCE BY THE TOWN OF NOT MORE THAN \$3,200,000 IN AGGREGATE PRINCIPAL AMOUNT OF SEWER REVENUE BONDS, SERIES 2010. A (UNITED STATES DEPARTMENT OF AGRICULTURE) IN ONE OR MORE SERIES, DEFINING AND PRESCRIBING THE TERMS AND PROVISIONS OF THE BONDS, PROVIDING GENERALLY FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE HOLDER OF THE BONDS, AND PROVIDING WHEN THIS ORDINANCE SHALL TAKE EFFECT.**

The above-quoted title of the Ordinance describes generally the contents thereof and the purposes of the Bonds contemplated thereby. The City contemplates the issuance of the Bonds described in the Ordinance. The proceeds of the Bonds will be used to (i) pay a portion of the costs of certain additions, betterments and improvements to the existing sewerage system of the issuer, and (ii) paying costs of issuance of the Bonds and related costs. The Bonds are payable from the revenues derived from the System. No taxes may at any time be levied for the payment of the Bonds or the interest thereon.

The above-entitled Ordinance was adopted by the Council of the City of Shinnston on September 13, 2010. A certified copy of the above-entitled Ordinance is on file with the City for review by interested parties during regular office hours. Following the public hearing, the City intends to enact the Ordinance upon final reading.

/s/ Sam DeMarco  
Mayor

**PUBLISHER'S CERTIFICATE**

I, Sara V. Shingleton, Classified Manager of THE EXPONENT TELEGRAM, a newspaper of general circulation published in the City of Clarksburg, County and state aforesaid, do hereby certify that the annexed:

**NOTICE OF PUBLIC HEARING ON TH**

was published in THE EXPONENT-TELEGRAM 2 time(s) commencing on the 15th day of September 2010 and ending on the 22nd day of September 2010 at the request of STEPTOE & JOHNSON.  
Given under my hand this 22nd day of September 2010

The publisher's fee for said publication is: \$81.22 for 357 words at \$0.1138 per word per day.

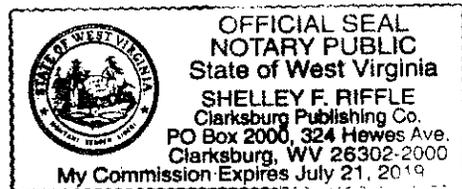
Sara V. Shingleton  
Classified Manager of The Exponent-Telegram



Subscribed to and sworn to before me this 22nd day of September 2010.

Shelley F. Riffle  
Notary Public in and for Harrison County, WV

My commission expires on:  
The 21 day of July 2019



CITY OF SHINNSTON

Water Revenue Bonds, Series 2010 A  
(United States Department of Agriculture)

EXCERPT OF MINUTES ON ADOPTION OF BOND ORDINANCE,  
SUPPLEMENTAL RESOLUTION AND DRAW RESOLUTION

The undersigned CLERK of the City of Shinnston of hereby certifies that the following is a true and correct excerpt of the minutes of a regular meeting of the said Council:

\*\*\*

\*\*\*

\*\*\*

The Council of the City of Shinnston met in regular session, pursuant to notice duly posted, on the 27th day of September, 2010, in Shinnston, West Virginia, at the hour of 7:00 p.m.

PRESENT: Sammy J. DeMarco, Mayor  
Kathleen Panek, Clerk  
Robert Burnette  
Vaughn Haggerty  
Rodney Strait  
Mary Ann Ferris  
David Signorellii  
Tom Aman, Steptoe & Johnson

ABSENT: Lance Vernon

Sammy J. DeMarco, Mayor, presided, and Kathleen Panek, acted as Clerk. The Mayor announced that a quorum of members was present and that the meeting was open for any business properly before it.

Thereupon, the Mayor stated that the proposed Bond Ordinance heretofore passed on first and second readings would be subject to protests and suggestions from any interested person at this time in accordance with the publication of an abstract of said Bond Ordinance and a Notice of Hearing, which publication has been duly made, and the Mayor called for protests and suggestions as to said Bond Ordinance and all persons desiring to protest the said Bond Ordinance or to make any suggestions with reference thereto were heard.

There being no protests or suggestions made as to said Bond Ordinance, the Mayor thereupon stated that it would be in order to consider the said Bond Ordinance for final enactment and the Mayor caused the said Bond Ordinance to be read as follows:

ORDINANCE AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF CERTAIN ADDITIONS, BETTERMENTS AND IMPROVEMENTS TO THE EXISTING PUBLIC SEWERAGE FACILITIES OF THE CITY OF SHINNSTON, AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED THEREOF, THROUGH THE ISSUANCE BY THE CITY OF NOT

MORE THAN \$3,200,000 IN AGGREGATE PRINCIPAL AMOUNT OF SEWER REVENUE BONDS, SERIES 2010 A (UNITED STATES DEPARTMENT OF AGRICULTURE) IN ONE OR MORE SERIES; DEFINING AND PRESCRIBING THE TERMS AND PROVISIONS OF THE BONDS; PROVIDING GENERALLY FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE HOLDER OF THE BONDS; AND PROVIDING WHEN THIS ORDINANCE SHALL TAKE EFFECT.

and caused the same to be read and there was discussion. Thereupon, upon motion duly made by Vaughn Haggerty and seconded by Mary Ann Ferris, it was unanimously ordered that the said Bond Ordinance be adopted and be in full force and effect on and from the date hereof.

Next, the Mayor then presented a proposed Supplemental Resolution in writing entitled:

SUPPLEMENTAL RESOLUTION MAKING PROVISIONS AS TO PRINCIPAL AMOUNT, DATE, MATURITY DATE, REDEMPTION PROVISION, INTEREST RATE, INTEREST AND PRINCIPAL PAYMENT DATES, SALE PRICE AND OTHER TERMS OF THE SEWER REVENUE BONDS, SERIES 2010 A OF THE CITY OF SHINNSTON, AND MAKING OTHER PROVISIONS AS TO THE BONDS.

and caused the same to be read and there was discussion. Thereupon, upon motion duly made by Sam DeMarco and seconded by Vaughn Haggerty, it was unanimously ordered that the said Supplemental Resolution be adopted and be in full force and effect on and from the date hereof.

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There being no further business to come before the meeting, on motion duly made and seconded, it was unanimously ordered that the meeting adjourn.

[Remainder of Page Intentionally Blank]

CERTIFICATION

I hereby certify that the foregoing is a true copy of the minutes of The Town of Newburg and that such actions remain in full force and effect and have not been amended, rescinded, superseded, repealed or changed.

Kathleen Paruk  
Clerk

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**Special Shinnston City Council Meeting**  
**City Of Shinnston, West Virginia**  
**August 30, 2010**

The Special Meeting of the Shinnston City Council for the purpose of adopting Resolutions and First Readings of Ordinances was called to order at 7:00 P.M. in Council Chambers on Monday, August 30, 2010 by Mayor Sammy J. DeMarco. Mayor Sam DeMarco, Vice-Mayor Bob Burnett, Councilpersons Vaughn Haggerty, Rodney Strait, Mary Ann Ferris, Lance Vernon, and David Signorelli were present. Also present were City Manager Debra Herndon and City Clerk Kathleen Panek.

It was ascertained that a quorum was present.

Councilperson Ferris moved to read the ordinance by title only. Councilperson Haggerty seconded. Motion carried by unanimous vote.

**AN ORDINANCE AMENDING THE ZONING ORDINANCE TO CHANGE THE ZONING MAP CLASSIFICATION OF CERTAIN PARCELS OF LAND**

In the ensuing discussion, Mayor DeMarco asked which parcels. City Manager Herndon explained it was the parcels the Planning and Zoning Commission recommended. Councilpersons Strait and Ferris explained why the properties were included. Councilperson Haggerty moved to accept. Councilperson Ferris seconded. DeMarco, Burnett, Strait, Haggerty, Ferris, and Signorelli voted YES. Vernon opposed. Motion carried. Councilperson Haggerty moved to set the Public Hearing for September 27 in Council Chambers at 7 P.M. and the Second Reading for October 11 in Council Chambers at 7 P.M. Seconded by Councilperson Strait. Motion passed by unanimous vote.

Councilperson Ferris moved to read JAG Resolution by title only. Councilperson Haggerty seconded. Carried by unanimous vote.

Resolution for the 2011 Justice Assistance Grant Prevention Resource Officer Program

Mayor DeMarco moved to accept the Resolution. Councilperson Haggerty seconded. Passed by unanimous vote.

Councilperson Ferris moved to read the Resolution on Community Partnership for Band Truck by title only. Councilperson Signorelli seconded. Passed by unanimous vote.

Resolution to accept contract terms for 2010 Community Partnership Grant for Band Truck

Mayor DeMarco moved to accept as read. Councilperson Ferris seconded. Passed by unanimous vote.

Mayor DeMarco moved to read the Resolution to accept the contract for Community Partnership for the electronic sign by title only. Seconded by Councilperson Strait. Passed unanimously.

Resolution to accept contract terms for 2010 Community Partnership Grant for informational electronic sign

Motion to accept was made by Mayor DeMarco. Seconded by Councilperson Ferris. Passed unanimously.

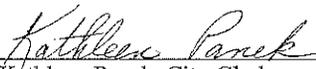
Councilperson Haggerty moved to read Repeal Ordinance by title only. Seconded by Councilperson Ferris. Carried by unanimous vote.

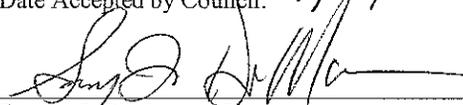
**AN ORDINANCE REPEALING ARTICLE 363 OF THE CODIFIED ORDINANCES OF THE CITY OF SHINNSTON**

63  
64 Councilperson Ferris moved to adopt for first reading and Mayor DeMarco seconded.  
65 Carried by unanimous vote.  
66  
67 Mayor DeMarco moved to set the Public Hearing for the ordinance to repeal Article 363  
68 for September 13 at 7 P.M. in Council Chambers and the Second Reading of that  
69 ordinance for September 13 immediately following the Public Hearing. Councilperson  
70 Ferris seconded. Passed by unanimous vote.  
71  
72 Mayor DeMarco moved to table the Support of Board of Education Excess Levy.  
73 Councilperson Strait seconded. Motion carried by unanimous vote. It is to be put on the  
74 September 13 agenda.  
75  
76 Tom Aman of Steptoe & Johnson explained the Bond Ordinance. Councilperson Ferris  
77 moved to read the Bond Ordinance by title only. Mayor DeMarco seconded. Passed by  
78 unanimous vote. ✓  
79  
80 Bond Ordinance providing for the issuance of its Sewer Revenue Bonds, Series 2010 A  
81 (the "Bonds").  
82  
83 Motion to accept on First Reading by Councilperson Ferris. Seconded by Councilperson  
84 Haggerty. Passed by unanimous consent.  
85  
86 Councilperson Ferris moved to set the Second Reading for September 13 at 7 P.M. in  
87 Council Chambers and the Public Hearing and Third Reading for September 27 at 7  
88 P.M. in Council Chambers and Councilperson Strait seconded. Passed by unanimous  
89 vote.  
90  
91 Mayor DeMarco moved to proclaim September 8, 2010 as Live United Day.  
92 Councilperson Signorelli seconded. Passed by unanimous vote.  
93  
94 Councilperson Ferris moved to adjourn. Councilperson Signorelli seconded. Passed by  
95 unanimous vote.

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104 Kathleen Panek, City Clerk

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106 Date Accepted by Council: 9/13/10  
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110 Sammy J. DeMarco, Mayor

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**Work Session Shinnston City Council  
City Of Shinnston, West Virginia  
August 30, 2010**

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The Work Session of the Shinnston City Council was called to order following the Special Meeting in Council Chambers on Monday, August 30, 2010 by Mayor Sammy J. DeMarco. Vice-Mayor Bob Burnett, Councilpersons Vaughn Haggerty, Rodney Strait, Mary Ann Ferris, Lance Vernon, and David Signorelli were present. Also present were City Manager Debra Herndon, Office Supervisor Emma Patterson, Consultant Richard Barnett, and City Clerk Kathleen Panek.

It was ascertained that a quorum was present.

City Manager Herndon reported on the Sanitary Board meeting.

In Executive Reports: Mayor DeMarco gave the Welcome to the West Virginia Italian Heritage Festival Bocce Tournament and also gave out the trophies. He also had an opportunity to speak with State Senator Oliverio. He also met with the Auditor and Shinnston had a good 2009 Audit. There were only 2 findings this time.

City Manager Herndon reported she missed the Bocce Tournament due to a required training session on NIMS. A 70% compliance of a 2-hour Homeland Security training is required by September 17. A discussion of the classes ensued.

City Manager Herndon reported we had a good audit thanks to Office Supervisor Patterson. City Manager Herndon is being inducted into the Shinnston/Lincoln Hall of Fame for 2010.

The Sanitary Board will meet September 9 to consider bids and recommend contractors for each phase of the sewer project. The City is bound to accept the lowest bids unless certain conditions are not met.

The recreation report was sent last week.

Office Supervisor Patterson reported Mitigation Applications have been submitted by 7 properties. The new payment methods are being used. Online payment has been accepted well, saving Water Clerk Hinerman a lot of time. Patrick Kirby of Brownfields wants Shinnston to participate in the Brownfields Conference September 8-9. Ms. Patterson and Chief Secreto will get together to discuss the Homeland Security requirements.

Consultant Richard Barnett reported the Water Plant and Sewer Plant are looking good. The sediment basins at the Water Plant are full. He is going to Middlebourne to look at their system. When asked about the telemetry at the Water Plant, stated it has had hiccups but does let us know when the tanks are full and when pumps go down.

There was a discussion about Mutual Aid.

There was a discussion about the parking issue.

Ms Herndon reported about the RCDI Grant with HUB. It is a 2-year training session after which a \$13,000 Technical Assistance Grant can be accessed for the Multi-Purpose Building. Since someone on the team questioned the project, Ms Herndon requested a statement from Council on their desire to continue the project. Each Council Member responded with support.

Ms Herndon reported that Recreation Coordinator Drain reports all is well with Frontier Days.

She reported on the Sidewalk Project that the split-rail fence was up at the Trailhead. Vice-Mayor Burnett requested an opening in the split-rail fence for access to cross the

62 street to Rite-Aid and other businesses there. Councilperson Ferris stated the walking trail  
63 at the park needs a barrier to keep cars off that trail.

64

65 Councilperson Strait said we need to use the NIMS training to prepare for events such as  
66 Frontier Days as well as using the training for disasters.

67

68

69

70

71

*Kathleen Panek*

72

Kathleen Panek, City Clerk

73

74

Date Accepted by Council:

9/13/10

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76

77

*Sammy J. DeMarco*

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Sammy J. DeMarco, Mayor

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**Regular City Council Meeting**  
**City Of Shinnston, West Virginia**  
**September 13, 2010**

The Regular Meeting of the Shinnston City Council was called to order at 7:05 P.M. in Council Chambers on Monday, September 13, 2010 by Mayor Sammy J. DeMarco. Mayor Sam DeMarco, Vice-Mayor Bob Burnett, Councilpersons Vaughn Haggerty, Rodney Strait, and Mary Ann Ferris were present. Councilpersons Lance Vernon and David Signorelli were absent. Mayor DeMarco led the Pledge of Allegiance. Councilperson Strait gave the Invocation. Also present were City Engineer Steve Cain and City Clerk Kathleen Panek. City Manager Debra Herndon was attending a Rural Water Conference at Snowshoe.

It was ascertained that a quorum was present.

Bill Grooms of 63 Station Street made observations to Council regarding traffic and noise in the City. He also commented he thinks the Downtown is becoming pedestrian friendly.

Executive Reports: Mayor DeMarco reported he attended the Harrison County Mayors Association meeting. Guest speakers were from Harrison County Board of Education, RESA VI, and Thrasher on disaster planning. Kent Rollins from Region VI reported the reports from the Census will be out soon. He attended the Board of Education meeting today – the Board of Education voted 3- 2 *against* applying for SBA funds for a new Lumberport Middle School. He participated in the Kiwanis street clean-up Saturday: there were 10 Kiwanis members and 3 Key Club members. Mayor DeMarco also reported he gave out the awards at the 5K Run.

City Engineer Steve Cain reported he will schedule a walk-through on the Sidewalk Project. The fence and entrance change at the trailhead caused a \$3000 overrun on the sidewalk project. He also reported he talked to Mr. G<sup>W</sup>right regarding the drainage problem behind his property. They will be meeting soon. The 10-inch (12 inch) project is in review now.

Councilperson Ferris reported the Shinnston Development Authority met on September 8. They voted to appropriate \$600 for the Promotions Committee. The Development Authority approved a recommendation to be brought to Council to become a Certified Arts Community. There was discussion that the HUBCAP training will help develop the multi-purpose building project. It was determined a Resource Guide should be developed and that \$250 of the Blueprint money would be used to pay for a Frontier Days radio ad.

Councilperson Ferris also reported the Promotions Committee met on Thursday and will talk to business owners about cleaning windows. Bob Bice will approach the Garden Club about live flower baskets. He will investigate a device to water the hanging baskets. They will also work on developing Welcome Packets.

Mayor DeMarco moved to accept Minutes from August Regular Meeting, Special Meeting, and Work Session for August. Councilperson Ferris seconded. Motion passed unanimously with corrections.

Councilperson Ferris moved to read by title only the second reading of the Bond Ordinance. Councilperson Haggerty seconded.

Second reading of: Act upon a proposed Bond Ordinance providing for the issuance of its Sewer Revenue Bonds, Series 2010 A (the bonds). The proceeds of the Bonds will be used (i) to pay a portion of the costs of acquisition and construction of certain extensions, additions, betterments and improvements to the existing public sewerage system of the Issuer; and (ii) to pay certain costs of the issuance hereof and related costs. The Bonds are payable solely from revenues to be derived from the ownership and operation of the sewer system of the City.

62 Councilperson Ferris moved to accept on Second Reading. Councilperson Haggerty  
63 seconded. Motion passed by unanimous vote.

64

65 Vice-Mayor Burnett stated Council had told Faith Hope Charity Ranch we would support  
66 them in the future in a non-monetary way. Faith Hope Charity Ranch requested a letter  
67 from Council supporting their mission. Vice-Mayor Burnett moved to instruct the City  
68 Manager to write a letter of support of the FHC Ranch for Homeless Children. Motion  
69 carried by unanimous vote. Vice-Mayor Burnett moved to read by title only. Mayor  
70 DeMarco seconded. Carried by unanimous vote.

Seconded by  
Ferris  
DH

71

72 Second reading of: An Ordinance Repealing Article 363 of the Codified Ordinances of  
73 the City of Shinnston.

74

75 Councilperson Ferris moved to accept on Second Reading. Councilperson Haggerty  
76 seconded. Passed by unanimous consent.

77

78 City Engineer Cain stated the bids had been opened for the Sewer Project. He explained  
79 the bids and the costs stating the 3 contractors were good contractors. Mayor DeMarco  
80 moved to accept the proposal for the sewer project as presented by the City Engineer.  
81 Councilperson Strait seconded. Motions passed by unanimous vote.

82

83 Mayor DeMarco moved to set the Legislative Breakfast for November 13 at 9 A.M..  
84 Councilperson Haggerty seconded. Passed by unanimous vote. City Manager Herndon is  
85 to determine location and menu.

86

87 It was decided to devote the Work Session of October 25 to a Parking Summit to allow  
88 time to invite the impacted community members. Vice-Mayor Burnett moved to table the  
89 yellow zone parking issue. Councilperson Haggerty seconded. Mayor DeMarco. Vice-  
90 Mayor Burnett, Councilpersons Haggerty and Strait voted Aye. Councilperson Ferris  
91 voted Nay. Motion carried. City Manager Herndon is to request Chief Secreto to  
92 determine how many parking places the proposed change will create and to determine a  
93 location for a loading zone for business in the 400 block of Pike Street.

94

95 For the September Work Session Agenda, please bring a list from the Legislative  
96 Breakfast 2009 and a list of concerns to bring up at the Legislative Breakfast 2010.

97

98 Councilperson Ferris asked if Council wants to hold a Town Meeting. Vice-Mayor  
99 Burnett asked for a programmable thermostat for Council Chamber to be put on the  
100 agenda. Mayor DeMarco suggested a theme for the Town Meeting be Appreciation of  
101 Businesses and Citizens.

102

103 Councilperson Ferris moved to adjourn. Councilperson Strait seconded. Motion carried  
104 by unanimous vote.

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109 Kathleen Panek  
110 Kathleen Panek, City Clerk

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112 Date Accepted by Council: 9/27/10  
113 Sammy J. DeMarco  
114  
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116 Sammy J. DeMarco, Mayor

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ARTICLE 141  
Sanitary Board

141.01	Established.	141.04	Terms; vacancies.
141.02	Appointment; qualification.	141.05	Powers; scope; authority.
141.03	Members; appointment.	141.06	Officers.

CROSS REFERENCES

Composition of board - see W. Va. Code 16-13-18  
Publication of financial statement - see W. Va. Code 16-13-18a

141.01 ESTABLISHED.

There is hereby created a Sanitary Board for the City, in Harrison County, West Virginia. (Passed 10-10-60)

141.02 APPOINTMENT; QUALIFICATION.

The Sanitary Board of the City shall be appointed by Council, and the members of such Board, upon their appointment, shall qualify by taking the oath of office required of other public officials of the City. (Passed 10-10-60)

141.03 MEMBERS; APPOINTMENT.

The Sanitary Board, as herein created, shall be composed of the Mayor and two persons appointed by Council, one of whom, during the construction period, shall be a registered professional engineer. The engineer member of such Board need not be a resident of the City. No officer or employee shall be eligible to appointment on the Sanitary Board until at least one year after the expiration of the term of his public office. (Passed 10-10-60)

141.04 TERMS; VACANCIES.

The appointment of the original Board shall be for the term of two and three years respectively, and upon the expiration of each term, and each succeeding term thereafter, the appointment of a successor shall be made in like manner for a term of three years. Vacancies shall be filled for the unexpired term in the same manner as the original appointment. The Mayor's term shall coincide with his tenure of office. (Passed 10-10-60)

141.05 POWERS; SCOPE; AUTHORITY.

The Sanitary Board shall have the control over and supervision of the construction, acquisition, improvement, equipment, custody, operation and maintenance of a sewage collection system and sewage treatment plant or plants;

intercepting sewers; outfall sewers; force mains; pumping stations; ejector stations, the collection and treatment, purification and disposal, in a sanitary manner, of liquid and solid waste, night soil and industrial waste of the City; and in addition thereto, such Board shall be vested with and shall exercise all of the rights and perform all of the duties conferred upon it by West Virginia Code Articles 16-11 and 16-13 and all acts amendatory and supplemental thereto. (Passed 10-10-60)

#### 141.06 OFFICERS.

The Mayor shall act as chairman of the Sanitary Board, which shall select from its members a vice-chairman and shall designate a secretary and treasurer, but the secretary and treasurer may be one and the same, who need not be a member or members of the Sanitary Board. The vice-chairman, secretary and treasurer shall hold office at the will of the Sanitary Board. The members of the Sanitary Board shall receive such compensation for their services, either as salary or as payments for meetings attended, as Council may determine, and shall be entitled to payment for reasonable expenses incurred in the performance of thier duties. Council shall fix the reasonable compensation of the secretary and treasurer in its discretion, and shall fix the amounts of bond to be given by the treasurer. (Passed 10-10-60)

A Special called meeting of the council for the City of Shinnston met in the Mayor's office on the 10th of October 1960, to hear second reading of the sanitation ordinance and other business, with the following members present: Mayor George F Dorsey, Recorder Robert O Janes, Councilmen: Core, Thornburg, Monroe, Goff, Hardman, Morgan, Snider, Knight, and City Atty. Abruzzino.

Attorney Abruzzino read for the second reading the ordinance to adopt a sanitary board for the City of Shinnston and stated it had been advertised in the local paper on Oct 6, 1960.

After the foregoing ordinance had been read and fully discussed and explained, it was moved by Councilman Joe Knight and seconded by John Morgan that the ordinance be adopted as read: The motion was put to a vote and all the councilmen present, namely Core, Thornburg, Monroe, Hardman, Goff, Morgan Snider, and Knight voted in favor of the same and none opposed.

Recorder Janes read reply from the State Water Resources Comm. concerning cities report on Oct 1, 1960.

Motion Core and second Snider and carried to employ engineer to run a survey on the proposed corporation line as designated by council for the new annexation to the City of Shinnston.

Street Committee recommended that a larger bulb be put in the st. light on Clark St. on the rear of the Swan property and to cut the brush above the old bucket mine, also stated that the Maley Used car lot would curtail the washing of cars, so that water wouldn't run across the Pike St. at new bridge.

Motion Morgan and second Hardman and carried that the present street light between the Anderson property and the Richard property on So Pike street be moved north to the corner of the Anderson property and entrance addition to Ehlen and a new street light be installed on the corner of the Richard's property.

Motion Morgan and second Core and carried to contact John Brown and ask that his half burned garage be removed for his lot.

Motion Knight and second Morgan and carried to hold Halloween celebration on October 31, 1960 and trick or treat in the residential section of town on the 27 of Oct and in the business district or town district on the 28 Oct 6

Motion Core and second Knight to adjourn at 8:40 P.M.

RECORDER: Robert O Janes

MAYOR: George F Dorsey

CITY OF SHINNSTON

Sewer Revenue Bonds, Series 2010 A  
(United States Department of Agriculture)

PETITION OF SANITARY BOARD

The Sanitary Board of the City of Shinnston (the "City") hereby petitions the Council of the City to enact an ordinance directing that sewer revenue bonds of the City be issued pursuant to the provisions of Chapter 16, Article 13 of the West Virginia Code of 1931, as amended, such bonds to be in an amount not to exceed \$3,200,000 for the purpose of financing a portion of the cost of acquisition and construction of certain additions, betterments and improvements to the existing sewerage system of the City, together with all necessary appurtenances, and the costs of issuance and related costs.

Directed this 25th day of August, 2010.

SANITARY BOARD OF THE CITY OF SHINNSTON

By:   
Its: Chairman

08.11.10  
818500.00004



September 22, 2010  
**DRAFT - No. 4**  
 Post Bid

Project Construction Budget  
 City of Shinnston  
**Sewer System Improvement Project**

<u>PROJECT COST</u>	<u>RUS LOAN</u>	<u>RUS GRANT</u>	<u>EPA SAP</u>	<u>CITY OF SHINNSTON</u>	<u>TOTAL</u>
CONSTRUCTION - (Total = \$3,549,514.30)					
Contract 1 - Rover Construction Inc.	\$ 594,204.00	\$ 285,000.00	\$ 288,672.00	\$ -	\$ 1,167,876.00
Contract 2 - J.F. Allen Co.	\$ 572,891.30	\$ 285,000.00	\$ 288,672.00	\$ -	\$ 1,146,563.30
Contract 3 - Michel, Inc.	\$ 681,903.00	\$ 264,500.00	\$ 288,672.00	\$ -	\$ 1,235,075.00
CONSTRUCTION CONTINGENCY	\$ 120,000.00	\$ 60,000.00	\$ -	\$ -	\$ 180,000.00
LAND & RIGHTS	\$ 10,000.00	\$ -	\$ -	\$ -	\$ 10,000.00
LEGAL FEES	\$ 27,200.00	\$ 6,800.00	\$ -	\$ -	\$ 34,000.00
BOND COUNSEL	\$ 14,725.00	\$ -	\$ -	\$ 10,275.00	\$ 25,000.00
ACCOUNTING	\$ 4,500.00	\$ -	\$ -	\$ -	\$ 4,500.00
ENGINEERING FEES	\$ 485,700.00	\$ 291,000.00	\$ -	\$ -	\$ 776,700.00
Study & Report Phase - \$178,200					
Basic - \$290,000					
Insp. - \$200,000					
Special - \$108,500					
INTEREST	\$ 167,000.00	\$ -	\$ -	\$ -	\$ 167,000.00
PROJECT CONTINGENCY	\$ 21,876.70	\$ 7,700.00	\$ -	\$ -	\$ 29,576.70
<b>TOTAL</b>	\$ 2,700,000.00	\$ 1,200,000.00	\$ 866,016.00	\$ 10,275.00	\$ 4,776,291.00



**United States Department of Agriculture  
Rural Development  
Elkins Area Office**

October 1, 2010

~~The Honorable Sammy J. DeMarco  
Mayor, City of Shinnston  
40 Main Street  
Shinnston, WV 26431~~

COPY

Dear Mayor DeMarco:

This letter is to confirm that the pre-closing meeting for the USDA Rural Development, Rural Utilities Service (RUS) loan and grant on the upcoming City of Shinnston Sewer System Improvement Project is scheduled for October 21, 2010, at 10:00 a.m. in the City Council chambers located at 43 Bridge Street, Shinnston, West Virginia. A pre-construction conference is to follow at 11:00 a.m. in the same location. The official loan closing date for the City's project will be October 25, 2010. The project attorney should attend the pre-closing meeting and the project accountant should be available for consultation if needed.

All of the requirements set forth in the RUS Letter of Conditions dated July 28, 2008, must be met and the loan and grant must be closed in accordance with RUS Instruction 1780. Many of the aforementioned items from the Letter of Conditions have already been addressed. Those items remaining to be satisfied prior to loan and grant closing include:

1. The certification on the RUS Grant Agreement (RUS Bulletin 1780-12) will be executed at the pre-closing meeting.
2. The certification on the RUS Loan Resolution (RUS Bulletin 1780-27) will be executed at the pre-closing meeting.
3. The City's attorney must provide a completed and signed Form RD 442-22, Opinion of Counsel Relative to Rights-of-Way, showing no exceptions. This form should be dated October 25, 2010. It should include an attached list of all of the rights-of-way needed for the project identifying which ones have been obtained and recorded.
4. The City's attorney must furnish a Form RD 1927-10, Final Title Opinion, on all land(s) being acquired for the project. In addition, the attorney must provide a separate final title opinion(s) covering all existing property owned by the City. The opinion(s) should be dated October 25, 2010, and they should include legal descriptions (and plats if they are available).

---

Randolph Center Building • 1200 Harrison Avenue, Suite 150 • Elkins, West Virginia 26241  
Phone: (304) 636-2158 • Fax: (304) 636-5902 • TDD: (304) 284-4836 • Web: <http://www.rurdev.usda.gov/wv>

Committed to the future of rural communities.

"USDA is an equal opportunity provider, employer and lender."  
To file a complaint of discrimination write USDA, Director, Office of Civil Rights, 1400 Independence Avenue, S.W.,  
Washington, DC 20250-9410 or call (800)795-3272(voice) or (202) 720-6382 (TDD).

5. In accordance with Item 9(c) of the letter of conditions, the City's attorney must furnish a narrative opinion addressing all permits, certifications, and other items necessary to show that all legal requirements can be met and stating how they will be met. The narrative should also identify any condemnation proceedings that are anticipated and state how they will be handled. If the City was unable to obtain the necessary property rights for any tract or right-of-way, a "right of entry" must be obtained for all properties before the pre-closing.
6. In accordance with the Legal Services Agreement, the project attorney should be on hand during the pre-construction conference to review construction contracts, and contracting procedure, as well as surety and contractual bonds in connection with the project. The attorney must sign the certification in the contract specification book, and record the payment and performance bonds as appropriate.
7. No later than the date of the pre-closing meeting, the City must provide written evidence that all required insurance coverage and fidelity bond coverage has been obtained in accordance with Item 12 of the RUS Letter of Conditions.
8. The permit from the West Virginia Department of Highways must be on hand at the closing. The City should proceed to obtain the necessary bond and forward it to the WVDOH with a request that the permit be issued if this has not already been done.
9. All applicable Public Service Commission certificates and/or approvals must be obtained prior to closing, and a copy provided to RUS. We have a copy of the PSC Final Order on the Certificate case that became final on October 11, 2009. If any further PSC approvals have been required, please provide copies of them to our office.
10. No later than the date of the pre-closing meeting, the City must provide proof that \$10,275.00 has been deposited into the construction account for this project. This is to verify that the City's contribution to the project is available to be spent on project related expenses.
11. No later than the date of the pre-closing meeting, the City must provide RUS with proof that the City is in good standing with the WV Workers' Compensation system (Brick Street).
12. No later than the date of the pre-closing meeting, the project accountant must provide the certification described in Item 8b of the Letter of Conditions stating that the accounts and records required by the bond ordinance have been established, and they are operational.
13. No later than the date of the pre-closing, the City must provide RUS with a written certification that they have a Vulnerability Assessment (VA) and an Emergency Response Plan (ERP) in accordance with Item 14 of the RUS letter of RUS Letter of Conditions.
14. The Contractors involved in the construction of the project will need to complete Form AD 1048, "Certification Regarding Debarment – Lower Tier Covered Transactions".

15. The first requisition for Rural Development funds should be created and submitted for Rural Development review as soon as possible. Once it is approved, the bond counsel will need to know the amount so that the bond can be completed.
16. Please be prepared to have a properly called meeting of the City Council during the pre-closing process. Also please bring any official seal that the City uses for authenticating documents.
17. Nancy Taylor, the Rural Development Technician in our office, is planning to complete a Civil Rights Compliance Review with the City at the pre-closing. Please have someone present that can answer questions about civil rights issues that pertain to the City's sewer system.

Thank you for doing business with USDA Rural Development. If you have any questions regarding these or any other matters pertaining to your loan and grant, please contact our office at your earliest convenience.

Sincerely,

Joseph D. Crickenberger  
Rural Development Specialist

cc: State Director  
USDA- Rural Development

Steptoe & Johnson, PLLC  
Attention: Katy Mallory, P.E.  
P.O. Box 1588  
Charleston, WV 25326

Thomas R. Michael, Esquire  
P.O. Box 250  
Lost Creek, WV 26385

Greenhorne & O'Mara  
Attention: Steven Cain, P.E.  
111 Elkins Street  
Fairmont, WV 26554

Tetrick & Bartlett, PLLC  
P.O. Box 1916  
Clarksburg, WV 26302

U.S. Environmental Protection Agency  
Region III  
Attention: Bruce Smith  
1650 Arch Street  
Philadelphia, PA 19103-2029

WV Dept. of Environmental Protection  
Attention: Elbert Morton, P.E.  
601 57<sup>th</sup> Street, SE, Room 2080  
Charleston, WV 25304

USDA Rural Development  
Attention: Steven Poe  
7009 Mountain Park Drive  
White Hall, WV 26554



United States Department of Agriculture  
Rural Development  
West Virginia State Office

COPY

July 28, 2008

The Honorable Sammy J. DeMarco  
Mayor, City of Shinnston  
40 Main Street  
Shinnston, WV 26431

Dear Mayor DeMarco:

This letter, with Attachments 1 through 12 and enclosures, establishes conditions which must be understood and agreed to by you before further consideration may be given to your application. The loan and grant will be administered on behalf of the Rural Utilities Service (RUS) by the State and Area staff of USDA, Rural Development. Any changes in project cost, source of funds, scope of services, or any other significant changes in the project or applicant must be reported to and approved by USDA, Rural Development, by written amendment to this letter. Any changes not approved by Rural Development shall be cause for discontinuing processing of the application.

The docket may be completed on the basis of an RUS loan in the amount of \$2,700,000, an RUS grant in the amount of \$1,200,000, and other funding in the amount of \$866,016, for a total project cost of \$4,766,016. The other funding is planned in the form of a grant from the U.S. Environmental Protection Agency.

The loan will be considered approved on the date a signed copy of Form RD 1940-1, "Request for Obligation of Funds," is mailed to you. The interest rate will be the lower of the rate in effect at the time of loan approval or the time of loan closing.

Extra copies of this letter are being provided for use by your engineer, attorney, bond counsel and accountant. The enclosures and attachments listed below are attached to the copies as noted. Enclosed are the following:

- Attachment No. 1—Project Construction Budget (All Copies)
- Attachment No. 2—Water and Waste Processing Checklist (All Copies)
- Attachment No. 3—RUS Instruction 1780, Subparts A and B (Applicant Copy)
- Attachment No. 4—RUS Instruction 1780, Subpart C (Engineer Copy)

75 High Street, Federal Building, Suite 320, Morgantown, WV 26505-7500  
304.284.4860 • 1.800.285.8228 • 304.284-4893 • TTY/TDD 304.284.4838 • Web: <http://www.rurdev.usda.gov>

Committed to the future of rural communities.

"USDA is an equal opportunity provider, employer and lender."

To file a complaint of discrimination write USDA, Director, Office of Civil Rights, 1400 Independence Avenue, S.W., Washington, DC 20260-9410 or call (800)795-3272 (voice) or (202)720-6382 (TDD).

Attachment No. 5--RUS Instruction 1780, Subpart D (Attorney and Bond Counsel Copies)

Attachment No. 6--RUS Supplemental General Conditions (Engineer Copy)

Attachment No. 7--RUS Bulletin 1780-26, "Guidance for the Use of EJCDC Standard Documents on Water and Waste Project with RUS Financial Assistance"

Attachment No. 8--Government Auditing Standards (Revision July 2007) (Accountant Copy) - This may be accessed at [www.gao.gov/govaud/ybk01.htm](http://www.gao.gov/govaud/ybk01.htm).

Attachment No. 9--RUS Bulletin 1780-30, "Water Programs Audit Guide and Compliance Supplement"

Attachment No. 10--RUS Bulletin 1780-31, "Water Programs Compliance Supplement for OMB Circular A-133 Audits"

Attachment No. 11 - Water Users Agreement (Applicant and Attorney Copies)

Attachment No. 12--Declination Statement (Applicant and Attorney Copies)

Attachment No. 13--Labor Standards Provisions (Engineer Copy) (ARC Projects)

Attachment No. 14--Sample Credit Agreement (Applicant Copy)

Attachment No. 15--Various other RD Forms as identified on Attachment No. 2

The conditions referred to above are as follows:

1. Fund Usage--Funds obligated under the terms of this letter of conditions are committed on the basis that your project will proceed to the construction stage in an expedient manner. In accordance with RUS Staff Instruction 1782-1, Section 1782.20(u)(5), any funds not disbursed within 60 months from the date of obligation will be de-obligated and returned to the Department of Treasury for further disposition to other RUS project applicants. In the event that USDA determines that your project has not progressed within the five (5) year timeline and that funds will be recaptured, you will be given appeal rights and due process to document reasons why you believe the decision to de-obligate your project funds is not justified.
2. Loan Repayment--The loan will be scheduled for repayment over a period of 40 years. The payments due the first 24 months will consist of interest only. Payments for the remaining 456 months will be equal amortized monthly installments. For planning purposes use a 3.625% interest rate and a monthly amortization factor of .00405, which provides for a monthly payment of \$10,935.00. You have the option of participating in the PREAUTHORIZED DEBIT (PAD) payment process. It will allow for your payment to be electronically debited from your account on the day your payment is due. Your authority must establish and fund monthly a debt service reserve account, which equals 10% of your monthly payment each month until you accumulate the equivalent of one annual installment on your loan.

You are reminded that your authority may be required to refinance (graduate) the unpaid balance of its RUS loan, in whole or in part, upon the request of RUS if at any time it shall be determined the authority is able to obtain a loan for such

purposes from responsible cooperative or private sources at reasonable rates and terms for loans for similar purposes and periods or time.

3. Security – The loan must be secured by a statutory lien of shared first priority, a pledge of the system's revenues and other agreements between you and RUS as set forth in the bond ordinance which must be properly adopted and executed by the appropriate officials of your organization. Additional security requirements are contained in RUS Bulletin 1780-12 and RUS Bulletin 1780-27 which are mentioned later.
4. Users – This conditional commitment is based upon you providing evidence that there will be at least 104 bona fide users on the proposed system when it has been completed and is placed in operation. This evidence will consist of a certification from you that identifies and attests to the number of users that are actually connected to the City's existing sewer system which is to be partially replaced by the new system, at the time you request authorization to advertise the project for construction bids.  
  
Before RUS can agree to the project being advertised for construction bids, you must provide evidence that the total required number of bona fide users has been acquired and currently using the system.
5. Bond Counsel Services – The services of a recognized bond counsel are required. The bond counsel will prepare the form of ordinance to be used, in accordance with Subpart D of RUS Instruction 1780. You should immediately provide your bond counsel with a copy of this letter of conditions, its attachments and enclosures.
6. Engineering Services – It will be necessary for you to obtain the services of an engineer. EJCDC No. 510-FA, "Standard Form of Agreement between Owner and Engineer for Professional Services" (2002 Funding Agency Edition) should be used to obtain the services of an engineer. The EJCDC document is issued under copyright and cannot be provided by RUS.
7. Legal Services – It will be necessary for you to obtain the services of a local attorney. For your convenience "RUS Legal Services Agreement" is enclosed for your use.
8. Accounting Services – It will be necessary for you to obtain the services of a qualified accountant. The accountant must agree to develop and provide the following:
  - a. All necessary accounting material required by the Public Service Commission of West Virginia (Rule 42 Exhibit).

- b. Prior to loan/grant closing, your accountant must certify that the accounts and records as required by your bond ordinance have been established and are operational.

The Accountant's Agreement should be submitted to RUS for review.

Compensation in the contract should include only those services identified above and not include payment for construction management services from the accountant unless RUS concurrence is obtained.

RUS regulations (Attachment No. 3) outline requirements for the submission of management reports and audits. Appropriate state statutes place certain audit requirements on your City. The attached booklets, "Government Auditing Standards (Revised 2007)" (Attachment No. 8), and RUS Bulletins 1780-30 and 1780-31 (Attachment Nos. 9 and 10) outline audit requirements.

You are reminded that certain provisions of the Office of Management and Budget Circular A-133 are applicable to any public body or nonprofit association that expends \$500,000 or more in federal funds in any one fiscal year. You must enter into an agreement annually with an accountant (or the State Tax Department) to perform the audit. The agreement must be in accordance with the requirements of the State Tax Commissioner of West Virginia. Compensation for preparation of the A-133 audit or your annual audit are not included in project funds and should be paid from the operational revenues generated from your system operation.

9. Facility Control – Prior to advertisement for construction bids, you must furnish satisfactory evidence that you have or can obtain adequate continuous and valid control over the lands and rights needed for the project. Such evidence must be in the following form:

- a. A right-of-way map showing clearly the location of all lands and rights needed for the project. The map must designate public and private lands and rights and the appropriate legal ownership thereof.
- b. A copy of deeds, contracts or options for any lands needed other than rights-of-way, along with a preliminary title opinion covering such lands. Form RD 1927-9, "Preliminary Title Opinion" may be used. In the case of your existing system or where the City already acquired real property (land or facilities), a preliminary title opinion(s) concerning all such property(s) will be provided.
- c. A narrative opinion from your attorney concerning all permits, certifications and other items necessary to show that all legal requirements can be met and stating how they will be met. This narrative should also identify any condemnation proceedings that are anticipated and state how they will be handled.

- d. A certification and legal opinion relative to title to rights-of-way and easements. Form RD 442-22, "Opinion of Counsel Relative to Rights-of-Way," may be used. This form may contain a few exceptions such as properties that must be condemned; however, prior to the start of construction or loan closing, whichever occurs first, a new Form RD 442-22, must be provided which does not provide for any exceptions. The attorney's legal opinion should include a certification that all requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 and West Virginia State Code Chapter 54 have been met in the acquisition of both real property and rights-of-way. Such requirements may include, but are not limited to, distributing informational material to all affected property owners, and completing appraisals of the affected properties.
- e. On the day of loan closing, the City's attorney must furnish final title opinions on all land(s) being acquired. Form RD 1927-10, "Final Title Opinion" may be used. In the case of your existing system or where the City has already acquired real property(s) (land or facilities), the City's attorney will provide a separate final title opinion(s) covering such property(s) on the day of loan closing.

10. Permits – Copies of all permits needed for the project must be provided for review prior to advertisement for construction bids. Such permits will include but are not limited to the following:

- West Virginia Department of Highways
- Railroads
- State Department of Health
- Department of Environmental Protection
- Corps of Engineers
- Public Land Corporation

11. Public Service Commission Approvals – You must obtain the following from the West Virginia Public Service Commission:

- a. A Certificate of Convenience and Necessity.
- b. Approval of user charges that are acceptable to you and the Rural Utilities Service.
- c. Approval of financing for the project's proposed financing arrangements.

The "Rule 42" Exhibit to be attached to the Public Service Commission application must contain at least the information shown in Attachment No. 1.

A copy of the Public Service Commission application and its "Rule 42" Exhibit must be provided for review.

12. Insurance and Bonding Requirements – Prior to loan closing or start of construction, whichever occurs first, you must acquire the types of insurance and bond coverage shown below. The use of deductibles may be allowed providing you have the financial resources to cover potential claims requiring payment of the deductible. RD strongly recommends that you have your engineer, attorney, and insurance provider(s) review proposed types and amounts of coverage, including any exclusions and deductible provisions. It is your responsibility and not that of RD to assure that adequate insurance and fidelity or employee dishonesty bond coverage is maintained.

- a. General Liability Insurance – This should include vehicular coverage.
- b. Workers' Compensation – In accordance with appropriate State laws.
- c. Position Fidelity Bond(s) – All positions occupied by persons entrusted with the receipt and/or disbursement of funds must be bonded. As a good business practice you will probably wish to have each position bonded in an amount equal to the maximum amount of funds to be under the control of that position at any one time. (Next three sentences are only for projects that do not have property insurance through the West Virginia State Board of Risk) During the construction phase of your project, this maximum amount will be much greater than normal; therefore, it is our recommendation that you temporarily increase your coverage to \$300,000. Once construction is complete, you may decrease the amount of your coverage. Please note that the cost of the temporary increase in coverage is an eligible project cost.

The minimum coverage acceptable to RUS once your project is in operation will be for each position to be bonded for an amount at least equal to one annual installment on your loan(s).

- d. National Flood Insurance – In addition to meeting the requirements for the type of assistance requested, the following requirements must be met for financial assistance for acquisition and/or construction in designated special flood or mudslide prone areas:
  - i. If flood insurance is available, you must purchase a flood insurance policy at the time of loan closing.
  - ii. Applicants whose buildings, machinery or equipment are to be located in a community which has been notified as having special flood or mudslide prone areas will not receive financial assistance where flood insurance is not available.

- e. Real Property Insurance—Prior to the acceptance of the facility from the contractor(s), you must obtain real property insurance (fire and extended coverage) on all above-ground structures, to include machinery and equipment housed therein. This does not apply to water reservoirs, standpipes, elevated tanks or noncombustible materials used in treatment plants, clearwells, filters and the like.

### 13. Environmental Requirements—

- a. Mitigation—At the conclusion of the proposal's environmental review process, specific actions were negotiated with environmental regulatory officials to avoid or minimize adverse environmental impacts. The following list of action(s) are required for successful completion of the project and must be adhered to during project design and construction.
  - i. Soil erosion damage will be minimized by the implementation of a West Virginia Division of Environmental Protection approved Erosion and Sediment Control Plan. West Virginia DEP approval for erosion and sediment control is by a WV NPDES storm water management permit, which should be obtained prior to bidding the project. Reclamation of disturbed areas and method of soil stabilization should be included in the WV DEP Erosion and Sediment Control Plan approval. All measures pertaining to soil stabilization and erosion control should be designed by the engineer and enforced by the engineer and WV DEP during project construction.
  - ii. No wetlands have currently been identified by various agencies in the proposed project site. If interaction with wetlands or stream crossing should occur, the proper permits should be applied for during the final design stage.
  - iii. Construction to any affected area should not begin until all permits have been approved by all regulatory agencies. Also, any necessary measures to minimize disturbance to the area will be demonstrated by performing construction during dry conditions to minimize adverse effects to the site.
- b. Project Modifications—The project as proposed has been evaluated to be consistent with all applicable environmental requirements. If the project or any project element deviates from or is modified from the original approved project, additional environmental review may be required.

14. Vulnerability Assessments (VA) and Emergency Response Plans (ERP)—

Congress enacted the Public Health Security and Bioterrorism Preparedness Response Act of 2002, Public Law 107-188 (Bioterrorism Act). The Bioterrorism Act amended the Safe Drinking Water (SDWA) to require all medium and large sized community water systems (serving populations greater than 3,300) to assess vulnerability to terrorist attack and develop emergency plans for response to such an attack. Medium and large community water systems are being monitored by the U.S. EPA for completion of VA's and ERP's.

Rural Development requires all financed water and wastewater systems to have a vulnerability assessment (VA) and an emergency response plan (ERP) in place. New water or wastewater systems must provide a certification that an ERP is complete prior to the start of operations. A certification that a VA is complete must be submitted within one year of the start of operations. All other borrowers must provide a certification that a VA and ERP are complete prior to bid authorization.

RD does not need or want a copy of the VA or ERP. The requested certification will be sufficient to meet our needs. Technical assistance providers are available to provide you with on site assistance if desired.

15. Civil Rights & Equal Opportunity—You should be aware of and will be required to comply with other federal statute requirements including but not limited to:

Section 504 of the Rehabilitation Act of 1973—Under section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), no handicapped individual in the United States shall, solely by reason of their handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving RD financial assistance.

Civil Rights Act of 1964—All borrowers are subject to, and facilities must be operated in accordance with, title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) and subpart E of part 1901 of this title, particularly as it relates to conducting and reporting of compliance reviews. Instruments of conveyance for loans and/or grants subject to the Act must contain the covenant required by paragraph 1901.202(e) of this title.

The Americans with Disabilities Act (ADA) of 1990—This Act (42 U.S.C. 12101 et seq.) prohibits discrimination on the basis of disability in employment, State and local government services, public transportation, public accommodations, facilities, and telecommunications. Title II of the Act applies to facilities operated by State and local public entities which provides services, programs and activities. Title III of the Act applies to facilities owned, leased, or operated by private entities which accommodate the public.

Age Discrimination Act of 1975—This Act (42 U.S.C. 6101 et seq.) provides that no person in the United States shall on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.

RD financial programs must be extended without regard to race, color, religion, sex, national origin, marital status, age, or physical or mental handicap.

16. Contract Documents, Final Plans and Specifications—

a. The contract documents should consist of the following:

(1) EJCDC Document No. C-521, 2002 Edition, 'Suggested Form of Agreement between Owner and Contractor on the Basis of Stipulated Price' and EJCDC Document No. C-710, 2002 Edition, 'Standard General Conditions of the Construction Contract—Funding Agency Edition' and Attachments. The EJCDC document is issued under copyright and cannot be provided by RUS.

(2) 'RUS Supplemental General Conditions'

RUS Bulletin 1780-26, 'Guidance for the Use of EJCDC Standard Documents on Water and Waste Projects with RUS Financial Assistance (September 10, 2003 Version)', is enclosed for use by your engineer in the preparation of the contract documents (Attachment No.7).

b. The contract documents must provide, as a minimum, the following insurance:

(1) Liability Insurance—Personal Liability - \$500,000; Property Damage - \$200,000 - \$200,000. This coverage must include indemnification of the City and its engineer. EJCDC Document C-710, 'Standard General Conditions of the Construction Contract' (Funding Agency Edition) and Exhibit G to RUS Bulletin 1780-26, 'Supplementary Conditions' both suggest certain limits of liability for insurance coverage. Those limits should be considered as minimum requirements only. It is recommended you consider increasing the given limits of liability after analyzing your specific needs.

(2) Builder's Risk Insurance—On all structures and mechanical and electrical equipment in place or stored on the site to the full insurable value thereof:

(3) Workers' Compensation—In accordance with applicable State laws.

- c. The contract documents and final plans and specifications must be submitted to RUS for approval.
  - d. The project must be designed in compliance with Section 504 of the Rehabilitation Act of 1973.
17. State Prevailing Wage Law - You should ensure that all requirements of Article 5A of the West Virginia State Prevailing Wage Law, "Wages for Construction of Public Improvements" are met during construction of the project.
18. Interim Financing—Interim financing will be used for the RUS loan if it is available at reasonable rates and terms. You must provide RUS with a copy of the tentative agreement reached in connection with interim financing. A copy of the proposed agreement should be provided for RUS review. A Sample Credit Agreement is attached for your use in meeting this requirement (Attachment No.11).
19. Disbursement of Funds—The RUS funds will be advanced as they are needed in the amount(s) necessary to cover the RUS proportionate share of any disbursements required of your City, over 30 day periods. Funds will be disbursed by electronic transfer of funds.

Any RD grant funds not disbursed immediately upon receipt must be deposited in an interest bearing account except as follows:

- a. Federal grant awards (includes all federal funding sources) are less than \$120,000 per year.
- b. The best available interest bearing account would not be expected to earn in excess of the following:  
  
Public Bodies - Interest earned on grant funds in excess of \$100 per year will be submitted to RUS at least quarterly as required in 7 CFR 3016.
- c. The depository would require a minimum balance so high that it would not be feasible.

The City will establish a separate fund, to be known and hereafter referred to as the Construction Account, with a lending institution insured by the Federal Deposit Corporation. The account shall be used solely for the purpose of paying the costs of the project as outlined in the construction budget. All funds in the account will be secured by a collateral pledge equaling at least 100% of the highest amount of funds expected to be deposited in the Construction Account.

The City will establish a separate fund, to be known and hereafter referred to as the Construction Account, with a lending institution insured by the Federal Deposit Corporation. The account shall be used solely for the purpose of paying the costs of the project as outlined in the construction budget. All funds in the account will be secured by a collateral pledge equaling at least 100% of the highest amount of funds expected to be deposited in the Construction Account. All deposits in excess of \$100,000 will be secured by a collateral pledge in accordance with Treasury Circular Number 176.

The City must assure that all project funds are expended only for the eligible items included in the final project budget or as may be later approved by RUS.

20. Other Project Funds—Prior to advertisement for construction bids, you must provide evidence showing the approval of any other project funds. This evidence should include a copy of the funding award. Prior to award of the contract(s) to the contractor(s), you must provide evidence that the other project funds are available for expenditure. This evidence should consist of at least a letter from the funding agency stating the funds are available for expenditure.
21. At a properly called meeting, you must adopt and properly execute the following forms, and minutes showing the adoption must be provided:
  - Form RD 1940-1—'Request for Obligation of Funds'
  - RUS Bulletin 1780-12—'Water or Waste System Grant Agreement'
  - RUS Bulletin 1780-27—'Loan Resolution (Public Bodies)'
  - Form RD 400-1—'Equal Opportunity Agreement'
  - Form RD 400-4—'Assurance Agreement'
  - Form AD 1047—'Certification Regarding Debarment—Primary'
  - Form AD 1049—'Certification Regarding Drug-Free Workplace'
  - Form RD 1910-11—'Applicant Certification, Federal Collection Policies'
  - RD Instruction 1940-Q, Exhibit A-1, 'Certification for Contracts, Grants and Loans'
  - Standard Form LLL—'Disclosure of Lobbying Activities' (If Applicable)
  - Certification of Compliance
  - Form RD 1942-46, 'Letter of Intent to Meet Conditions'
22. The enclosed Water and Waste Processing Checklist (Attachment No. 2) outlines the items needed to complete the loan and grant docket. All the items listed must be included in the loan and grant docket when it is forwarded to the USDA—Rural Development State Office with a request for loan closing instructions to be issued.
23. Upon receipt of the loan and grant docket, which contains all the items required above, RUS may authorize you to advertise the project for construction bids. Such advertisement must be in accordance with appropriate State statutes. Immediately after bid opening you must provide RUS with (a) a bid tabulation, (b) recommendations from you and your engineer as to the acceptability of the bids

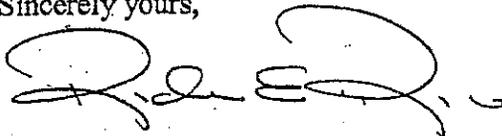
received, and (c) your recommendations for contract awards. If all parties then agree the construction bids received are acceptable, it is determined that adequate funds are available to cover the total facility costs, and that all the administrative conditions of loan approval have been satisfied, loan closing instructions will be issued. The closing instructions, a copy of which will be forwarded to you, will set forth any further requirements that must be met before the loan can be closed. When all parties agree that the closing requirements can be met, a mutually acceptable date for the loan closing will be scheduled.

Any applicant contribution shall be considered as the first funds expended. After providing for all authorized costs, any remaining RUS project funds will be considered to be RUS grant funds and refunded to RUS. If the amount of unused RUS project funds exceeds the RUS grant, that part would be RUS loan funds and would be applied as an extra payment toward the loan balance.

If the conditions set forth in this letter are not met within twelve (12) months from the date hereof, RUS reserves the right to discontinue processing of the application. In the event the project has not advanced to the point of loan closing within the twelve-month period and it is determined the authority still wishes to proceed, it will be necessary that the proposed budget be reviewed again in detail. If during that review, it is determined the budget is no longer current and/or adequate, RUS reserves the right to require that it be revised or replaced.

We believe the information herein clearly sets forth the actions which must be taken; however, if you have any questions, please do not hesitate to contact me.

Sincerely yours,



RICKIE E. RICE  
State Director

Enclosures

cc: See Page 13.

cc: Rural Development Specialist  
Elkins, WV

Tetrick and Bartlett, PLLC  
P.O. Box 1916  
Clarksburg, WV 26302

Thomas R. Michael  
Attorney at Law  
P.O. Box 250  
Lost Creek, WV 26385-0250

Greenhorn and O'Mara  
111 Elkins Street  
Fairmont, WV 26554

U.S. Environmental Protection Agency, Region III  
ATTN: Bruce Smith, EPA Project Officer  
1650 Arch Street  
Philadelphia, PA 19103-2029

West Virginia Department of Environmental Protection  
ATTN: Elbert Morton, P.E.  
601 57<sup>th</sup> Street, SE  
Charleston, WV 25304

Project Construction Budget

<u>PROJECT COST</u>	<u>EPA SAP</u>	<u>RUS GRANT</u>	<u>RUS LOAN</u>	<u>TOTAL</u>
CONSTRUCTION	\$ 866,016	\$ 721,584	\$ 1,769,100	\$ 3,356,700
CONST. CONTINGENCY		\$ 127,100	\$ 208,000	\$ 335,100
LAND & RIGHTS			\$ 10,000	\$ 10,000
LEGAL FEES		\$ 6,800	\$ 27,200	\$ 34,000
BOND COUNSEL			\$ 25,000	\$ 25,000
ACCOUNTING			\$ 4,500	\$ 4,500
ENGINEERING FEES		\$ 325,500	\$ 410,200	\$ 735,700
Study & Report Phase - \$178,200				
Basic - \$290,000				
Insp. - \$200,000				
Special - \$67,500				
INTEREST (2 yrs. @ 3.625%)			\$ 196,000	\$ 196,000
PROJECT CONTG.		\$ 19,016	\$ 50,000	\$ 69,016
<b>TOTAL</b>	<b>\$ 866,016</b>	<b>\$ 1,200,000</b>	<b>\$ 2,700,000</b>	<b>\$ 4,766,016</b>

Rates

Available for general domestic, commercial, and industrial service.

First	2,000	gallons @	\$ 13.11	per M gallons
Next	5,000	gallons @	\$ 10.86	per M gallons
Over	7,000	gallons @	\$ 10.25	per M gallons

Minimum Charge

No bill shall be rendered for less than the following amounts according to the size of meter installed.

5/8" x 3/4"	meter	\$ 26.22	per month
3/4"	meter	\$ 39.33	per month
1"	meter	\$ 65.55	per month
1 1/2"	meter	\$ 131.10	per month
2"	meter	\$ 209.76	per month
3"	meter	\$ 393.30	per month
4"	meter	\$ 655.50	per month
6"	meter	\$ 1,311.00	per month
8"	meter	\$ 2,097.60	per month

Minimum Monthly Bill \$ 26.22 for 2,000 gallons

Delayed Payment Penalty

The above tariff is net. On all accounts not paid in full within twenty (20) days of date of bill, ten percent (10%) will be added to net amount shown.

If any bill is not paid within sixty (60) days after date, water service to the customer will be discontinued. Water service will not be restored until all past due water bills have been paid in full and all accrued penalties plus a reconnection charge have been paid.

TAP FEE

Prior to Construction - \$ 250.00

After the start of construction, there shall be a charge of \$250.00 for connection to the system.

SECURITY DEPOSIT

Not to exceed two-twelfths (2/12) of the average annual usage of a customer's specific customer class, or \$50.00, whichever is greater. Average residential consumption will be calculated as 4,500 gallons per month. Average commercial consumption will be calculated as 9,000 gallons per month.

Use and Income Analysis - See Attached

Cash Flow Analysis - See Attached

Attachment No. 1 to Letter of Conditions  
 For: City of Shinnston - Wastewater Collection System Improvement Project  
 Date:

**CITY OF SHINNSTON WASTEWATER COLLECTION SYSTEM IMPROVEMENTS  
 OPERATING BUDGET PROPOSED RATES**

<b>OPERATING INCOME</b>		
Metered Sales	\$	611,267
Forfeited Discounts & Penalties	\$	7,288
Other Sewer Revenues	\$	500
<b>TOTAL OPERATING INCOME</b>		<u>\$ 619,055</u>
<b>NON OPERATING INCOME</b>		
Interest Income	\$	15,126
<b>TOTAL NON OPERATING INCOME</b>		<u>\$ 15,126</u>
<b>TOTAL INCOME</b>		<u>\$ 634,181</u>
<b>EXPENSES</b>		
O & M	\$	246,550
Taxes	\$	14,435
3 Yr. Ave. Capital Expenditures	\$	3,007
<b>TOTAL EXPENSES</b>		<u>\$ 263,992</u>
<b>INCOME AVAILABLE FOR D/S (A)</b>		<u>\$ 370,189</u>
<b>DEBT SERVICE</b>		
Existing Bond P & I (B)	\$	192,040
Proposed Bond P & I (B) (1)	\$	131,220
<b>TOTAL DEBT SERVICE</b>		<u>\$ 323,260</u>
<b>DEBT SERVICE RESERVE</b>		
Existing Debt Service Reserve	\$	- (Fully Funded)
R & R Reserve 2.5% of Revenue	\$	15,476
Proposed Debt Service Reserve	\$	13,122
<b>TOTAL DEBT SERVICE RESERVE</b>		<u>\$ 28,598</u>
<b>SURPLUS (DEFICIT)</b>		<u>\$ 18,331</u>
<b>DEBT COVERAGE (A/B)</b>		\$ 1.15

Increase needed-- 0.26

(1) Based on RUS loan of \$2,700,000 @ 3.625% for 38 years, an RUS grant of \$1,200,000 and an EPA SAP grant of \$866,016.

City of Shinnston

Sewer Revenue Bonds, Series 2010 A  
(United States Department of Agriculture)

RECEIPT OF DEPOSITORY BANK

I, the undersigned duly authorized representative of WesBanco Bank, Shinnston, West Virginia (the "Bank"), hereby certify that on October 25, 2010, the Bank received an automated clearinghouse transfer in the amount of \$557,000 for the Series 2010 A Bonds to the credit of the Project Construction Account (Account Number 732005337).

WITNESS my signature on this 25th day of October, 2010.

WESBANCO BANK

By:           *Cathy Jahn DM*            
Its: Authorized Officer

818500.00004

5151673

**ACH VENDOR/MISCELLANEOUS PAYMENT  
ENROLLMENT FORM**

OMB No. 1510-0056

This form is used for Automated Clearing House (ACH) payments with an addendum record that contains payment-related information processed through the Vendor Express Program. Recipients of these payments should bring this information to the attention of their financial institution when presenting this form for completion.

**PRIVACY ACT STATEMENT**

The following information is provided to comply with the Privacy Act of 1974 (P.L. 93-579). All information collected on this form is required under the provisions of 31 U.S.C. 3322 and 31 CFR 210. This information will be used by the Treasury Department to transmit payment data, by electronic means to vendor's financial institution. Failure to provide the requested information may delay or prevent the receipt of payments through the Automated Clearing House Payment System.

**AGENCY INFORMATION**

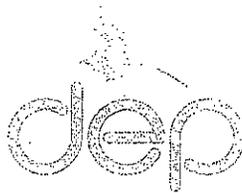
FEDERAL PROGRAM AGENCY U. S. Environmental Protection Agency		
AGENCY IDENTIFIER: LVFC	AGENCY LOCATION CODE (ALC): 68128933	ACH FORMAT: <input checked="" type="checkbox"/> CCD+ <input type="checkbox"/> CTX <input type="checkbox"/> CTP
ADDRESS: PO BOX 98515  Las Vegas, NV 89193-8515		
CONTACT PERSON NAME: Colleen Garis Email: garis.colleen@epa.gov		TELEPHONE NUMBER: ( 702 ) 798-2406
ADDITIONAL INFORMATION: FAX Number: (702) 798-2423		

**PAYEE/COMPANY INFORMATION**

NAME City of Shinnston	SSN NO. OR TAXPAYER ID NO. 55-6000250
ADDRESS 40 Main Street  Shinnston, WV 26431	
CONTACT PERSON NAME: Debra Herndon	TELEPHONE NUMBER: (304 ) 593-3076

**FINANCIAL INSTITUTION INFORMATION**

NAME: Wesbanco	
ADDRESS: 329 Pike Street  Shinnston, WV 26431	
ACH COORDINATOR NAME:	TELEPHONE NUMBER: (304 ) 592-5700
NINE-DIGIT ROUTING TRANSIT NUMBER: <u>  0  </u> <u>  4  </u> <u>  3  </u> <u>  4  </u> <u>  0  </u> <u>  0  </u> <u>  3  </u> <u>  6  </u>	
DEPOSITOR ACCOUNT TITLE: Sewer Project Account	
DEPOSITOR ACCOUNT NUMBER: 732005337	LOCKBOX NUMBER:
TYPE OF ACCOUNT: <input checked="" type="checkbox"/> CHECKING <input type="checkbox"/> SAVINGS <input type="checkbox"/> LOCKBOX	
SIGNATURE AND TITLE OF AUTHORIZED OFFICIAL: (Could be the same as ACH Coordinator)	TELEPHONE NUMBER: (304 ) 592-5700



AUG 13 2009

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west virginia department of environmental protection

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Division of Water and Waste Management  
601 57<sup>th</sup> Street S.E.  
Charleston, WV 25304  
Phone: (304) 926-0495  
Fax: (304) 926-0496

Joe Manchin III, Governor  
Randy C. Huffman, Cabinet Secretary  
www.wvdep.org

August 11, 2009

Debra Herndon, City Manager  
City of Shinnston  
40 Main Street  
Shinnston, West Virginia 26431

RE: City of Shinnston  
Sanitary Sewer System Improvements  
Plans and Specifications Approval  
EPA No. XP-973738-01

Dear Ms. Herndon:

The plans and specifications for the above referenced project are hereby approved.

This approval DOES NOT constitute authority to advertise for bids. You will be advised by separate letter from this agency as to when such an advertisement can be initiated.

Please be advised it will be necessary to issue an addendum to the contract documents prior to opening of bids to include the current State and Federal Labor Wage Determinations. This and all addenda and revisions to the contract documents must be telefaxed to this office for approval and issued to plan holders five (5) days prior to bid opening. Failure to submit addenda in a timely manner will automatically nullify approval to open bids. Any addenda issued inside the five (5) day period prior to the bid opening must include an automatic extension to the bid opening date of a minimum of seven (7) days.

If any questions arise, please contact David Byrd at (304) 926-0499, ext. 1593.

Sincerely,

A handwritten signature in black ink that reads "Mike Johnson". The signature is written in a cursive, flowing style.

Mike Johnson, P.E.  
Program Manager  
Clean Water SRF Program

MJ/db

cc: Dustin Vincent, P.E., Greenhorne & O'Mara, Inc.

Promoting a healthy environment.



STATE OF WEST VIRGINIA  
 DEPARTMENT OF ENVIRONMENTAL PROTECTION  
 DIVISION OF WATER AND WASTE MANAGEMENT  
 601 57TH STREET SE  
 CHARLESTON, WV 25304-2345

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM  
 WATER POLLUTION CONTROL PERMIT

NPDES PERMIT NO.: WV0054500  
 SUBJECT: Sewage

ISSUE DATE: February 26, 2010  
 EFFECTIVE DATE : March 28, 2010  
 EXPIRATION DATE: February 25, 2015  
 SUPERSEDES: Permit No. WV0054500  
 dated June 30, 2005

LOCATION: SHINNSTON	Harrison	West Fork River
(City)	(County)	(Drainage Basin)

See the next page for a list of Outlets.

TO WHOM IT MAY CONCERN:

This is to certify that: SHINNSTON CITY OF  
 40 MAIN ST  
 SHINNSTON, WV 26431-1198

is hereby granted a West Virginia NPDES Water Pollution Control Permit to:  
 operate and maintain an existing 0.38 million gallons per day (MGD) combined sewer wastewater collection and  
 treatment system which is further described as follows:

The combined wastewater collection system is comprised of approximately 2,425 linear feet of three (3) inch  
 diameter gravity sewer line, 2,460 linear feet of four (4) inch diameter gravity sewer line , 7,530 linear feet of six  
 (6) inch diameter gravity sewer line, 15,603 linear feet of eight (8) inch diameter gravity sewer line, 13,920 linear  
 feet of 10 inch diameter gravity sewer line, 7,355 linear feet of 12 inch diameter gravity sewer line, 1,875 linear  
 feet of 16 inch diameter gravity sewer line, 159 manholes, 45 cleanouts, 10 lift stations, 2,300 linear feet of one  
 and a half (1 & 1/2) inch diameter force main line, 2,425 linear feet of three (3) inch diameter force main line and  
 543 linear feet of twelve (12) inch diameter force main line and all requisite appurtenances.

The wastewater treatment system is comprised of an automatic bar screen, a grit chamber, a 380,000 gallons  
 oxidation ditch, two (2) 58,425 gallon clarifiers, a two (2) chlorine contact chambers, with a volume of 6,238  
 gallons each, a 25,450 gallon sludge decant tank, two (2) 495 square feet vacuum sludge drying beds and all  
 necessary appurtenances.

The sewage collection system contains ten (10) combined sewer overflow (CSO) relief points which discharge  
 during wet weather events when the hydraulic capacity of the collection system is exceeded via Outlet Nos. C002  
 through C011 to the West Fork River.

Also, to accept non-domestic wastewater from Rite Aid for subsequent treatment and disposal.

Facilities are to serve approximately 3,800 persons in the City of Shinnston and its environs including Barbara  
 Heights apartment complex and Riverdale Estates, Phase I and discharge treated wastewater via Outlet No. 001 to  
 the West Fork Creek ( approximately 12.5 miles from its mouth) of the Monongahela River.

Also, to acquire, install, construct, operate and maintain a sewage collection system improvement projects to be constructed under Contract Nos. 1, 2 and 3. The sanitary sewer collection system improvement projects shall be constructed in accordance with the plans, specifications and reports approved by the Division of Water and Waste Management, Engineering Branch. A further description of these documents is presented as follows:

**SANITARY SEWAGE COLLECTION SYSTEM IMPROVEMENTS/CONSTRUCTION IN ACCORDANCE WITH:**

**PLANS, SPECIFICATIONS AND REPORTS PREPARED BY:**

Greenhome & O'Mara, Inc  
111 Elkins Street  
Fairmont, WV 26554

**TITLE:** City of Shinnston, Harrison County, WV  
Sanitary Sewer System Improvements

EPA No.: XP-973738-01

Plans & Specifications Approval Date: August 11, 2009

**This permit is subject to the following terms and conditions :**

The information submitted on and with Permit Application No. WV0054500, dated the 4th day of December, 2009 is hereby made terms and conditions of this permit with like effect as if all such permit application information were set forth herein and with other conditions set forth in Sections A, B, C , D, and Appendix A.

**The validity of this permit is contingent upon the payment of the applicable annual permit fee, as required by Chapter 22, Article 11, Section 10 of the Code of West Virginia.**

**WATER OR WASTE SYSTEM GRANT AGREEMENT**  
**UNITED STATES DEPARTMENT OF AGRICULTURE**  
**RURAL UTILITIES SERVICE**

THIS AGREEMENT dated October 25, 2010 between  
City of Shinnston

a public corporation organized and operating under

Chapter 16, Article 13 of the West Virginia Code  
*(Authorizing Statute)*

herein called "Grantee," and the United States of America acting through the Rural Utilities Service, Department of Agriculture, herein called "Grantor," WITNESSETH:

WHEREAS

Grantee has determined to undertake a project of acquisition, construction, enlargement, or capital improvement of a (water) (sewer) system to serve the area under jurisdiction at an estimated cost of \$ 4,766,016 and has duly authorized the undertaking of such project.

Grantee is able to finance not more than \$ 3,566,016 of the development cost through revenues, charges, taxes or assessments, or funds otherwise available to Grantee resulting in a reasonable user charge.

Said sum of \$ 3,566,016 has been committed to and by Grantee for such project development costs.

Grantor has agreed to grant the Grantee a sum not to exceed \$ 1,200,000 or 25.18% percent of said development costs, whichever is the lesser, subject to the terms and conditions established by the Grantor. Provided, however, that the proportionate share of any grant funds actually advanced and not needed for grant purposes shall be returned immediately to the Grantor. The Grantor may terminate the grant in whole, or in part, at any time before the date of completion, whenever it is determined that the Grantee has failed to comply with the conditions of the grant.

As a condition of this grant agreement, the Grantee assures and certifies that it is in compliance with and will comply in the course of the agreement with all applicable laws, regulations, Executive orders and other generally applicable requirements, including those set out in 7 CFR 3015.205(b), which hereby are incorporated into this agreement by reference, and such other statutory provisions as are specifically set forth herein.

NOW, THEREFORE, In consideration of said grant by Grantor to Grantee, to be made pursuant to Section 306 (a) of the Consolidated Farm and Rural Development Act the purpose only of defraying a part not to exceed 25.18% percent of the development costs, as defined by applicable Rural Utilities Service Instructions.

**GRANTEE AGREES THAT GRANTEE WILL:**

A. Cause said project to be constructed within the total sums available to it, including said grant, in accordance with the project plans and specifications and any modifications thereof prepared by Grantee and approved by Grantor.

B. Permit periodic inspection of the construction by a representative of Grantor during construction.

C. Manage, operate and maintain the system, including this project if less than the whole of said system, continuously in an efficient and economical manner.

D. Make the services of said system available within its capacity to all persons in Grantee's service area without discrimination as to race, color, religion, sex, national origin, age, marital status, or physical or mental handicap (possess capacity to enter into legal contract for services) at reasonable charges, including assessments, taxes, or fees in accordance with a schedule of such charges, whether for one or more classes

of service, adopted by resolution dated \_\_\_\_\_, as may be modified from time to time by Grantee. The initial rate schedule must be approved by Grantor. Thereafter, Grantee may make such modifications to the rate system as long as the rate schedule remains reasonable and nondiscriminatory.

E. Adjust its operating costs and service charges from time to time to provide for adequate operation and maintenance, emergency repair reserves, obsolescence reserves, debt service and debt service reserves.

F. Expand its system from time to time to meet reasonably anticipated growth or service requirements in the area within its jurisdiction.

G. Provide Grantor with such periodic reports as it may require and permit periodic inspection of its operations by a representative of the Grantor.

H. To execute any agreements required by Grantor which Grantee is legally authorized to execute. If any such agreement has been executed by Grantee as a result of a loan being made to Grantee by Grantor contemporaneously with the making of this grant, another agreement of the same type need not be executed in connection with this grant.

I. Upon any default under its representations or agreements set forth in this instrument, Grantee, at the option and demand of Grantor, will repay to Grantor forthwith the original principal amount of the grant stated herein above with the interest at the rate of 5 percentum per annum from the date of the default. Default by the Grantee will constitute termination of the grant thereby causing cancellation of Federal assistance under the grant. The provisions of this Grant Agreement may be enforced by Grantor, at its option and without regard to prior waivers by it previous defaults of Grantee, by judicial proceedings to require specific performance of the terms of this Grant Agreement or by such other proceedings in law or equity, in either Federal or State courts, as may be deemed necessary by Grantor to assure compliance with the provisions of this Grant Agreement and the laws and regulations under which this grant is made.

J. Return immediately to Grantor, as required by the regulations of Grantor, any grant funds actually advanced and not needed by Grantee for approved purposes.

K. Use the real property including land, land improvements, structures, and appurtenances thereto, for authorized purposes of the grant as long as needed.

1. Title to real property shall vest in the recipient subject to the condition that the Grantee shall use the real property for the authorized purpose of the original grant as long as needed.

2. The Grantee shall obtain approval by the Grantor agency for the use of the real property in other projects when the Grantee determines that the property is no longer needed for the original grant purposes. Use in other projects shall be limited to those under other Federal grant programs or programs that have purposes consistent with those authorized for support by the Grantor.

3. When the real property is no longer needed as provided in 1 and 2 above, the Grantee shall request disposition instructions from the Grantor agency or its successor Federal agency. The Grantor agency shall observe the following rules in the disposition instructions:

(a) The Grantee may be permitted to retain title after it compensates the Federal Government in an amount computed by applying the Federal percentage of participation in the cost of the original project to the fair market value of the property.

(b) The Grantee may be directed to sell the property under guidelines provided by the Grantor agency. When the Grantee is authorized or required to sell the property, proper sales procedures shall be established that provide for competition to the extent practicable and result in the highest possible return.

[Revision 1, 04/17/1998]

(c) The Grantee may be directed to transfer title to the property to the Federal Government provided that in such cases the Grantee shall be entitled to compensation computed by applying the Grantee's percentage of participation in the cost of the program or project to the current fair market value of the property.

**This Grant Agreement covers the following described real property (use continuation sheets as necessary).**

**All that real property associated with the wastewater treatment and collection system that is owned by the City of Shinnston.**

L. Abide by the following conditions pertaining to equipment which is furnished by the Grantor or acquired wholly or in part with grant funds. Equipment means tangible, non-expendable personal property having a useful life of more than one year and an acquisition cost of \$5,000 or more per unit. A Grantee may use its own definition of equipment provided that such definition would at least include all equipment defined above.

[Revision 1, 04/17/1998]

1. Use of equipment.

(a) The Grantee shall use the equipment in the project for which it was acquired as long as needed. When no longer needed for the original project, the Grantee shall use the equipment in connection with its other Federally sponsored activities, if any, in the following order of priority:

(1) Activities sponsored by the Grantor.

(2) Activities sponsored by other Federal agencies.

(b) During the time that equipment is held for use on the project for which it was acquired, the Grantee shall make it available for use on other projects if such other use will not interfere with the work on the project for which the equipment was originally acquired. First preference for such other use shall be given to Grantor sponsored projects. Second preference will be given to other Federally sponsored projects.

2. Disposition of equipment. When the Grantee no longer needs the equipment as provided in paragraph (a) above, the equipment may be used for other activities in accordance with the following standards:

(a) Equipment with a current per unit fair market value of less than \$5,000. The Grantee may use the equipment for other activities without reimbursement to the Federal Government or sell the equipment and retain the proceeds.

(b) Equipment with a current per unit fair market value of \$5,000 or more. The Grantee may retain the equipment for other uses provided that compensation is made to the original Grantor agency or its successor. The amount of compensation shall be computed by applying the percentage of Federal participation in the cost of the original project or program to the current fair market value or proceeds from sale of the equipment. If the Grantee has no need for the equipment and the equipment has further use value, the Grantee shall request disposition instructions from the original Grantor agency.

The Grantor agency shall determine whether the equipment can be used to meet the agency's requirements. If no requirement exists within that agency, the availability of the equipment shall be reported, in accordance with the guidelines of the Federal Property Management Regulations (FPMR), to the General Services Administration by the Grantor agency to determine whether a requirement for the equipment exists in other Federal agencies. The Grantor agency shall issue instructions to the Grantee no later than 120 days after the Grantee requests and the following procedures shall govern:

(1) If so instructed or if disposition instructions are not issued within 120 calendar days after the Grantee's request, the Grantee shall sell the equipment and reimburse the Grantor agency an amount computed by applying to the sales proceeds the percentage of Federal participation in the cost of the original project or program. However, the Grantee shall be permitted to deduct and retain from the Federal share ten percent of the proceeds, for Grantee's selling and handling expenses.

(2) If the Grantee is instructed to ship the equipment elsewhere the Grantee shall be reimbursed by the benefiting Federal agency with an amount which is computed by applying the percentage of the Grantee participation in the cost of the original grant project or program to the current fair market value of the equipment, plus any reasonable shipping or interim storage costs incurred.

(3) If the Grantee is instructed to otherwise dispose of the equipment, the Grantee shall be reimbursed by the Grantor agency for such costs incurred in its disposition.

3. The Grantee's property management standards for equipment shall also include:

(a) Records which accurately provide for: a description of the equipment; manufacturer's serial number or other identification number; acquisition date and cost; source of the equipment; percentage (at the end of budget year) of Federal participation in the cost of the project for which the equipment was acquired; location, use and condition of the equipment and the date the information was reported; and ultimate disposition data including sales price or the method used to determine current fair market value if the Grantee reimburses the Grantor for its share.

(b) A physical inventory of equipment shall be taken and the results reconciled with the equipment records at least once every two years to verify the existence, current utilization, and continued need for the equipment.

- (c) A control system shall be in effect to insure adequate safeguards to prevent loss, damage, or theft of the equipment. Any loss, damage, or theft of equipment shall be investigated and fully documented.
- (d) Adequate maintenance procedures shall be implemented to keep the equipment in good condition.
- (e) Proper sales procedures shall be established for unneeded equipment which would provide for competition to the extent practicable and result in the highest possible return.

**This Grant Agreement covers the following described equipment (use continuation sheets as necessary).**

None

M. Provide Financial Management Systems which will include:

1. Accurate, current, and complete disclosure of the financial results of each grant. Financial reporting will be on an accrual basis.
2. Records which identify adequately the source and application of funds for grant-supported activities. Those records shall contain information pertaining to grant awards and authorizations, obligations, unobligated balances, assets, liabilities, outlays, and income.
3. Effective control over and accountability for all funds, property and other assets. Grantees shall adequately safeguard all such assets and shall assure that they are used solely for authorized purposes.
4. Accounting records supported by source documentation.

N. Retain financial records, supporting documents, statistical records, and all other records pertinent to the grant for a period of at least three years after grant closing except that the records shall be retained beyond the three-year period if audit findings have not been resolved. Microfilm or photo copies or similar methods may be substituted in lieu of original records. The Grantor and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the Grantee's government which are pertinent to the specific grant program for the purpose of making audits, examinations, excerpts and transcripts.

O. Provide information as requested by the Grantor to determine the need for and complete any necessary Environmental Impact Statements.

P. Provide an audit report prepared in accordance with Grantor regulations to allow the Grantor to determine that funds have been used in compliance with the proposal, any applicable laws and regulations and this Agreement.

Q. Agree to account for and to return to Grantor interest earned on grant funds pending their disbursement for program purposes when the Grantee is a unit of local government. States and agencies or instrumentality's of states shall not be held accountable for interest earned on grant funds pending their disbursement.

R. Not encumber, transfer or dispose of the property or any part thereof, furnished by the Grantor or acquired wholly or in part with Grantor funds without the written consent of the Grantor except as provided in item K above.

S. To include in all contracts for construction or repair a provision for compliance with the Copeland "Anti-Kick Back" Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR, Part 3). The Grantee shall report all suspected or reported violations to the Grantor.

T. To include in all contracts in excess of \$100,000 a provision that the contractor agrees to comply with all the requirements of the Clean Air Act (42 U.S.C. §7414) and Section 308 of the Water Pollution Control Act (33 U.S.C. §1318) relating to inspection, monitoring, entry, reports, and information, as well as all other requirements specified in Section 114 of the Clean Air Act and Section 308 of the Water Pollution Control Act and all regulations and guidelines issued thereunder after the award of the contract. In so doing the Contractor further agrees:

[Revision 1, 11/20/1997]

1. As a condition for the award of contract, to notify the Owner of the receipt of any communication from the Environmental Protection Agency (EPA) indicating that a facility to be utilized in the performance of the contract is under consideration to be listed on the EPA list of Violating Facilities. Prompt notification is required prior to contract award.

2. To certify that any facility to be utilized in the performance of any nonexempt contractor subcontract is not listed on the EPA list of Violating Facilities pursuant to 40 CFR Part 32 as of the date of contract award.

[Revision 1, 11/20/97]

3. To include or cause to be included the above criteria and the requirements in every nonexempt subcontract and that the Contractor will take such action as the Government may direct as a means of enforcing such provisions.

As used in these paragraphs the term "facility" means any building, plan, installation, structure, mine, vessel or other floating craft, location, or site of operations, owned, leased, or supervised by a Grantee, cooperator, contractor, or subcontractor, to be utilized in the performance of a grant, agreement, contract, subgrant, or subcontract. Where a location or site of operation contains or includes more than one building, plant, installation, or structure, the entire location shall be deemed to be a facility except where the Director, Office of Federal Activities, Environmental Protection Agency, determines that independent facilities are co-located in one geographical area.

Grantor Agrees That It:

A. Will make available to Grantee for the purpose of this Agreement not to exceed \$1,200,000.00, which it will advance to Grantee to meet not to exceed 25.18% percent of the project development costs of the project in accordance with the actual needs of Grantee as determined by Grantor.

B. Will assist Grantee, within available appropriations, with such technical assistance as Grantor deems appropriate in planning the project and coordinating the plan with local official comprehensive plans for sewer and water and with any State or area plans for the area in which the project is located.

C. At its sole discretion and at any time may give any consent, deferment, subordination, release, satisfaction, or termination of any or all of Grantee's grant obligations, with or without valuable consideration, upon such terms and conditions as Grantor may determine to be (1) advisable to further the purpose of the grant or to protect Grantor's financial interest therein and (2) consistent with both the statutory purposes of the grant and the limitations of the statutory authority under which it is made.

Termination of This Agreement

This Agreement may be terminated for cause in the event of default on the part of the Grantee as provided in paragraph I above or for convenience of the Grantor and Grantee prior to the date of completion of the grant purpose. Termination for convenience will occur when both the Grantee and Grantor agree that the continuation of the project will not produce beneficial results commensurate with the further expenditure of funds.

In witness whereof Grantee on the date first above written has caused these presence to be executed by its duly authorized

Mayor

and attested and its corporate seal affixed by its duly authorized

City Clerk

Attest:

By: Kathleen Panek

(Title) CITY CLERK

By: Sam J. DeMarco

(Title) MAYOR

UNITED STATES OF AMERICA

RURAL UTILITIES SERVICE

By: [Signature] Rural Development Specialist  
(Title)



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
1650 Arch Street  
Philadelphia, Pennsylvania 19103-2029

OCT 21 2008

Ms. Debra Herndon, City Manager  
City of Shinnston  
40 Main Street  
Shinnston, West Virginia 26431-1198

Re: FY 2005 Special Appropriations Earmark  
to the City of Shinnston

RECEIVED  
OCT 24 2008

Dear Ms. Herndon:

As requested by your consulting engineer, Dustin Vincent of Greenhorne & O'Mara, Inc., this is to notify the City of Shinnston about the availability of Federal grant funds for the City's Fiscal Year 2005 water and wastewater infrastructure improvements project.

The Consolidated Appropriations Act, 2005 (Public Law 108-447) earmarked \$866,000 for water and wastewater improvements, as part of the budget for the Environmental Protection Agency.

If you have any questions, please contact me at (215) 814-5770.

Sincerely,

A handwritten signature in cursive script that reads "Bruce Smith".

Bruce Smith, EPA Project Officer

cc: Mike Johnson, WV DEP  
Dustin Vincent, Greenhorne & O'Mara, Inc.

City of Shinnston

Requisition No.1

RESOLUTION OF THE CITY OF SHINNSTON APPROVING INVOICES RELATING TO CONSTRUCTION AND OTHER SERVICES FOR THE WASTEWATER PROJECT AND AUTHORIZING PAYMENT THEREOF,

WHEREAS, the City of Shinnston has reviewed the invoices attached hereto and incorporated herein by reference relation to the pre-construction of the water project funded by the United States Department of Agriculture (USDA) and find as follows:

- 1. That none of the items for which payment is proposed to be made has formed the basis for any disbursement theretofore made.
2. That each item for which the payment is proposed to be paid is or was necessary in connection with the Project and constitutes a Cost of the project
3. That each of such costs has been otherwise properly incurred.
4. That the payment for each of the items proposed is due and owing.

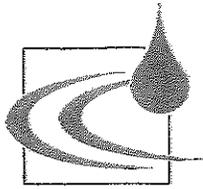
Table with 5 columns: Vendor, Total, City, USDA, EPA. Rows include Steptoe & Johnson, Tom Michael, Greenhorn & O'Mara, Tetrick & Bartlett, Professional Appraisal, City of Shinnston (condemnations), Rights of Way, TOTAL, and Round to.

NOW, THEREFOR, BE IT RESOLVED The City of Shinnston by as follows: There is hereby authorized and directed the payment of the attached invoices listed above:

ADOPTED BY the City of Shinnston, at the meeting held on the 27 day of September, 2010

By: [Signature]
Its: MAYOR

[Signature]
USDA



WEST VIRGINIA  
**Water Development Authority**

*Celebrating 34 Years of Service 1974 - 2008*

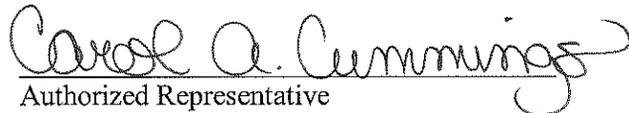
October 25, 2010

City of Shinnston  
Sewer Revenue Bonds, Series 2010 A  
(United States Department of Agriculture)

TO WHOM IT MAY CONCERN:

In reliance upon the certificate of Tetrick & Bartlett, PLLC the independent certified public accountant, and the opinion of Steptoe & Johnson PLLC, bond counsel, that the coverage and parity tests have been met, the undersigned duly authorized representative for the West Virginia Water Development Authority, the registered owner of the entire outstanding aggregate principal amount of the Series 1990 A Bonds and Series 1990 B Bonds, hereinafter defined and described, hereby consents to the issuance of the Sewer Revenue Bonds, Series 2010 A (United States Department of Agriculture), in the original aggregate principal amount of \$2,700,000 (the "Series 2010 A Bonds") by the City of Shinnston (the "Issuer"), under the terms of the bond ordinance authorizing the Series 2010 A Bonds, on a parity, with respect to liens, pledge and source of and security for payment, with the Issuer's outstanding Sewer Revenue Bonds, Series 1990 A (West Virginia Water Development Authority), dated March 29, 1990, issued in the original aggregate principal amount of \$2,245,223 (the "Series 1990 A Bonds") and senior and prior to the Issuer's Sewer Revenue Bonds, Series 1990 B (West Virginia Water Development Authority), dated March 29, 1990, issued in the original aggregate principal amount of \$104,777 (the "Series 1990 B Bonds").

WEST VIRGINIA WATER DEVELOPMENT  
AUTHORITY

  
Authorized Representative

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**CITY OF SHINNSTON**  
**SEWER REVENUE BONDS,**  
**SERIES 1990 A AND SERIES 1990 B**  
**and**  
**INTERIM CONSTRUCTION FINANCING**

**BOND AND NOTES ORDINANCE**

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CITY OF SHINNSTON

ORDINANCE

ORDINANCE AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF ADDITIONS, BETTERMENTS AND IMPROVEMENTS FOR THE EXISTING PUBLIC SEWERAGE FACILITIES OF THE CITY OF SHINNSTON AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED, THEREOF THROUGH THE ISSUANCE BY THE CITY OF NOT MORE THAN \$3,000,000 IN AGGREGATE PRINCIPAL AMOUNT OF SEWER REVENUE BONDS, SERIES 1990 A, NOT MORE THAN \$1,000,000 IN AGGREGATE PRINCIPAL AMOUNT OF SEWER REVENUE BONDS, SERIES 1990 B, AND NOT MORE THAN \$3,000,000 INTERIM CONSTRUCTION FINANCING, CONSISTING OF BOND ANTICIPATION NOTES, GRANT ANTICIPATION NOTES OR A LINE OF CREDIT EVIDENCED BY NOTES, OR ANY COMBINATION OF THE FOREGOING; PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS AND NOTES; AUTHORIZING EXECUTION AND DELIVERY OF A TRUST INDENTURE SECURING THE NOTES; APPROVING AND RATIFYING A LOAN AGREEMENT AND SUPPLEMENTAL LOAN AGREEMENT RELATING TO SUCH BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND PROVISIONS OF SUCH BONDS AND NOTES AND ADOPTING OTHER PROVISIONS RELATING THERETO.

BE IT ORDAINED AND ENACTED BY THE COUNCIL OF THE CITY OF SHINNSTON:

ARTICLE I

STATUTORY AUTHORITY, FINDINGS AND DEFINITIONS

Section 1.01. Authority for this Ordinance. This Ordinance (together with any ordinance, order or resolution supplemental hereto or amendatory hereof, the "Bond Legislation") is adopted pursuant to the provisions of Chapter 16, Article 13 of the West Virginia Code of 1931, as amended (the "Act"), and other applicable provisions of law.

Section 1.02. Findings. It is hereby found, determined and declared that:

A. The City of Shinnston (the "Issuer") is a municipal corporation and political subdivision of the State of West Virginia in Harrison County of said State.

B. The Issuer presently owns and operates a public sewage treatment, collection and transportation system. However, it is deemed necessary and desirable for the health and welfare of the inhabitants of the Issuer that there be acquired and constructed certain additions, betterments and improvements for the existing sewerage facilities of the Issuer, consisting of a new sewage treatment plant, new collection and transportation lines and all appurtenant facilities (the "Project") which constitute properties for the collection and transportation of liquid or solid wastes, sewage or industrial wastes (the existing sewerage facilities of the Issuer, the Project and any further additions thereto or extensions thereof is herein called the "System") at an estimated cost of \$4,883,049, in accordance with the plans and specifications prepared by the Consulting Engineers, which plans and specifications have heretofore been filed with the Issuer.

C. The estimated revenues to be derived in each year after completion of the Project from the operation of the System will be sufficient to pay all the costs of the operation and maintenance of said System, the principal of and interest on the Bonds and all Sinking Funds, Reserve Accounts and other payments provided for herein, all as such terms are hereinafter defined.

D. It is deemed necessary for the Issuer to issue its Sewer Revenue Bonds in the total aggregate principal amount of not more than \$4,000,000 in two series, being the Series 1990 A Bonds in the aggregate principal amount of not more than \$3,000,000, and the Series 1990 B Bonds in the aggregate principal amount of not more than \$1,000,000 (collectively, the "Original Bonds"), and (at the option of the Issuer) to issue its sewerage system bond anticipation notes prior to issuance of the Original Bonds and contemporaneously therewith, or as soon as practicable thereafter, to issue its sewerage system grant anticipation notes, and/or a note or notes evidencing a line of credit, or any combination of the foregoing (collectively, the "Notes") in the aggregate principal amount of not more than \$3,000,000 to temporarily finance costs of acquisition and construction of the Project. Said costs shall be deemed to include the cost of all property rights, easements and franchises deemed necessary or convenient therefor; interest upon the Notes during the term thereof and upon the Bonds prior to and during acquisition or construction and for a period not exceeding 6 months after completion of construction of the Project; amounts which may be deposited in the Reserve Accounts; engineering and legal expenses; expenses for estimates of costs and revenues, expenses for plans, specifications and surveys; other expenses necessary or incident to determining the feasibility or practicability of the enterprise, administrative expense, commitment fees, fees of the Authority (as hereinafter

defined), discount, initial fees for the services of registrars, paying agents, depositories or trustees or other costs in connection with the sale of the Bonds and Notes and such other expenses as may be necessary or incidental to the financing herein authorized, the construction or acquisition of the Project and the placing of same in operation, and the performance of the things herein required or permitted, in connection with any thereof, including, with respect to the Notes, any fees for the providing of a letter of credit and any costs of obtaining insurance thereon; provided, that reimbursement to the Issuer for any amounts expended by it for allowable costs prior to the issuance of the Bonds or Notes or the repayment of indebtedness incurred by the Issuer for such purposes, shall be deemed Costs of the Project, as hereinafter defined.

E. The period of usefulness of the System after completion of the Project is not less than 40 years.

F. It is in the best interests of the Issuer that its Original Bonds be sold to the Authority (as hereinafter defined) pursuant to the terms and provisions of a loan agreement and a supplemental loan agreement (collectively, the "Loan Agreement") to be entered into between the Issuer and the Authority, in form satisfactory to the Issuer and the Authority, as shall be approved by supplemental resolution.

G. There are not outstanding any obligations of the Issuer which will rank senior and prior to or on a parity with the Bonds as to lien, pledge and sources of and security for payment. The Series 1990 B Bonds shall be junior and subordinate to the Series 1990 A Bonds with respect to lien, pledge and sources of and security for payment and in all other respects. The Notes, if issued, will not be payable from the Net Revenues, but shall be payable from Grant Receipts, Surplus Revenues and proceeds of a letter of credit, if any, all as shall be set forth in the Indenture or the Supplemental Resolution authorizing the Notes.

H. The Issuer has complied with all requirements of West Virginia law relating to authorization of the acquisition and construction of the Project and operation of the System, including, without limitation, the imposition of rates and charges, and issuance of the Bonds and the Notes, or will have so complied prior to issuance of any thereof, including, among other things, the obtaining of a Certificate of Convenience and Necessity from the Public Service Commission of West Virginia by final order, the time for rehearing and appeal of which will either have expired prior to the issuance of the Bonds or any of the Notes or such final order will not be subject to appeal.

I. The Issuer is a governmental unit which has general taxing powers to finance operations of or facilities of the nature of the Project and System, and the Issuer, all subordinate entities, all entities which issue obligations on behalf of the Issuer, and all entities formed or, to the extent provided under Section 148 of the Code, herein defined, availed of, to avoid the purposes of Section 148(f)(4)(C) of the Code and all other entities benefiting thereby reasonably expect to issue less than \$5,000,000 aggregate principal amount of tax-exempt obligations during the calendar year in which the Notes and/or the Bonds are to be issued.

J. Pursuant to the Act, the Issuer has heretofore established a Sanitary Board and the Sanitary Board has petitioned the Governing Body to enact this Ordinance and issue the Bonds and Notes, as needed for the purposes set forth herein.

Section 1.03. Bond Legislation Constitutes Contract. In consideration of the acceptance of the Bonds and the Notes by those who shall be the Registered Owners of the same from time to time, this Bond Legislation shall be deemed to be and shall constitute a contract between the Issuer and such Bondholders and such Noteholders, and the covenants and agreements herein set forth to be performed by the Issuer shall be for the equal benefit, protection and security of the Registered Owners of any and all of such Bonds and Notes, respectively, all which shall be of equal rank and without preference, priority or distinction between any one Bond of a series and any other Bonds of the same series and between any one Note of a series and any other Note of the same series, by reason of priority of issuance or otherwise, except as expressly provided therein and herein.

Section 1.04. Definitions. The following terms shall have the following meanings herein unless the context expressly requires otherwise:

"Act" means Chapter 16, Article 13 of the West Virginia Code of 1931, as amended and in effect on the date of enactment hereof.

"Authority" means the West Virginia Water Development Authority, which is expected to be the original purchaser of the Original Bonds, or any other agency of the State of West Virginia that succeeds to the functions of the Authority.

"Authorized Officer" means the Mayor of the Issuer or any acting Mayor duly appointed by the Governing Body.

"Bond Construction Trust Fund" means the Bond Construction Trust Fund established by Section 5.01 hereof.

"Bondholder," "Holder of the Bonds," "Holder" or any similar term whenever used herein with respect to an outstanding Bond or Bonds, means the person in whose name such Bond is registered.

"Bond Legislation," "Ordinance," "Bond and Notes Ordinance" or "Local Act" means this Bond and Notes Ordinance and all ordinances, orders and resolutions supplemental hereto or amendatory hereof.

"Bond Registrar" means the bank or other entity to be designated as such in the Supplemental Resolution and its successors and assigns.

"Bond Year" means the 12-month period beginning on the anniversary of the Closing Date in each year and ending on the day prior to the anniversary date of the Closing Date in the following year except that the first Bond Year shall begin on the Closing Date.

"Bonds" means the Original Bonds, and any bonds on a parity therewith authorized to be issued hereunder.

"Closing Date" means the date upon which there is an exchange of the Bonds for the proceeds representing the purchase of the Bonds by the Authority.

"Code" means the Internal Revenue Code of 1986, as amended, and Regulations.

"Commission" means the West Virginia Municipal Bond Commission or any other agency of the State of West Virginia that succeeds to the functions of the Commission.

"Consulting Engineers" means Kelley, Gidley, Blair & Wolfe, Charleston, West Virginia, and Thrasher Engineering, Clarksburg, West Virginia, or any engineer or firm of engineers that shall at any time hereafter be retained by the Issuer as Consulting Engineers for the System.

"Costs" or "Costs of the Project" means those costs described in Section 1.02D hereof to be a part of the cost of construction and acquisition of the Project.

"Depository Bank" means the bank designated as such in the Supplemental Resolution, and its successors and assigns.

"EPA" means the United States Environmental Protection Agency and any successor to the functions of the EPA.

"EPA Grant" means the grant from the EPA pursuant to the commitment therefor.

"FDIC" means the Federal Deposit Insurance Corporation and any successor to the functions of the FDIC.

"Fiscal Year" means each 12-month period beginning on July 1 and ending on the succeeding June 30.

"Governing Body" means the council of the Issuer, as may hereafter be constituted.

"Government Obligations" means direct obligations of, or obligations the timely payment of the principal of and interest on which is guaranteed by, the United States of America.

"Grant Agreement" means a written commitment for the payment of the EPA Grant or any of the Other Grants, specifying the amount of such Grant, the terms and conditions upon which such Grant is made and the date or dates or event or events upon which such Grant is to be paid to the Issuer; provided that, "EPA Grant Agreement" means only the Grant Agreement relating to the EPA Grant and "Other Grant Agreements" means only those Grant Agreements relating to the Other Grants.

"Grant Receipts" means all moneys received by the Issuer on account of the EPA Grant after the date of issuance of any grant anticipation notes; provided that "EPA Grant Receipts" means only Grant Receipts on account of the EPA Grant, and "Other Grant Receipts" means only Grant Receipts on account of any or all of the Other Grants.

"Grants" means, collectively, the EPA Grant and the Other Grants, as hereinafter defined.

"Gross Revenues" means the aggregate gross operating and non-operating revenues of the System, as hereinafter defined, determined in accordance with generally accepted accounting principles, after deduction of prompt payment discounts, if any, and reasonable provision for uncollectible accounts; provided, that "Gross Revenues" does not include any gains from the sale or other disposition of, or from any increase in the value of, capital assets (including Qualified Investments, as hereinafter defined, purchased pursuant to Article 8.01 hereof) or any Tap Fees, as hereinafter defined.

"Herein," "hereto" and similar words shall refer to this entire Bond Legislation.

"Indenture" or "Trust Indenture" means the Trust Indenture which may, at the Issuer's option, be entered into between the Issuer and the Trustee relating to the Notes and all supplements or amendments thereto.

"Independent Certified Public Accountants" shall mean any certified public accountant or firm of certified public accountants that shall at any time hereafter be retained by the Issuer to prepare an independent annual or special audit of the accounts of the System or for any other purpose except keeping the accounts of the System in the normal operation of its business and affairs.

"Investment Property" means any security (as said term is defined in Section 165(g)(2)(A) or (B) of the Code), obligation, annuity contract, investment-type property or any residential rental property for family units which is not located within the jurisdiction of the Issuer and which is not acquired to implement a court ordered or approved housing desegregation plan, excluding, however, obligations the interest on which is excluded from gross income, under Section 103 of the Code, for federal income tax purposes other than specified private activity bonds as defined in Section 57(a)(5)(C) of the Code.

"Issuer" means the City of Shinnston, in Harrison County, West Virginia, and, unless the context clearly indicates otherwise, includes the Governing Body and the Sanitary Board of the Issuer.

"Loan Agreement" shall mean, collectively, the Loan Agreement and the Supplemental Loan Agreement, to be entered into between the Authority and the Issuer providing for the purchase of the Original Bonds from the Issuer by the Authority, the forms of which shall be approved, and the execution and delivery by the Issuer authorized and directed or ratified by the Supplemental Resolution.

"Mayor" means the Mayor of the Issuer.

"Net Proceeds" means the face amount of the Series 1990 A Bonds, plus accrued interest and premium, if any, less original issue discount, if any, and less proceeds deposited in the Series A Bonds Reserve Account. For purposes of the Private Business Use limitations set forth herein, the term Net Proceeds shall include any amounts resulting from the investment of proceeds of the Series 1990 A Bonds, without regard to whether or not such investment is made in tax-exempt obligations.

"Net Revenues" means the balance of the Gross Revenues, remaining after deduction of Operating Expenses, as hereinafter defined.

"Nonpurpose Investment" means any Investment Property which is acquired with the gross proceeds or other proceeds of the Bonds and is not acquired in order to carry out the governmental purpose of the Bonds.

"Noteholder," "Holder of the Notes" or any similar term means the person, whenever used herein with respect to an outstanding Note or Notes, in whose name such Note is registered.

"Notes" means collectively, the not more than \$3,000,000 in aggregate principal amount of sewerage system bond anticipation notes, grant anticipation notes or notes evidencing a line of credit originally authorized hereby which may be issued by the Issuer, the terms of which shall be set forth in a Supplemental Resolution, and unless the context clearly indicates otherwise, the terms "Notes" includes any refunding Notes of the Issuer.

"Notes Construction Trust Fund" means the Notes Construction Trust Fund which may be established by the Indenture.

"Notes Debt Service Fund" means the Notes Debt Service Fund which may be established by the Indenture.

"Notes Registrar" means the bank to be designated as such in the Indenture or the Supplemental Resolution and its successors and assigns.

"Operating Expenses" means the reasonable, proper and necessary costs of repair, maintenance and operation of the System and includes, without limiting the generality of the foregoing, administrative, engineering, legal, auditing and insurance expenses, other than those capitalized as part of the Costs, fees and expenses of the Authority, fiscal agents, the Depository Bank, Registrar, Paying Agent and the Trustee (all as herein defined), other than those capitalized as part of the Costs, payments to pension or retirement funds, taxes and such other reasonable operating costs and expenses as should normally and regularly be included under generally accepted accounting principles; provided, that "Operating Expenses" does not include payments on account of the principal of or redemption premium, if any, or interest on the Bonds or Notes, charges for depreciation, losses from the sale or other disposition of, or from any decrease in the value of, capital assets, amortization of debt discount or such miscellaneous deductions as are applicable to prior accounting periods.

"Original Bonds" or "Bonds originally authorized hereby" or similar phrases mean, collectively, the not more than \$3,000,000 in aggregate principal amount of Series 1990 A Bonds and the not more than \$1,000,000 in aggregate principal amount of Series 1990 B Bonds, issued for the purpose of paying a portion of the Costs of the Project and for such other purposes permitted and authorized by this Bond Legislation.

"Original Notes Purchaser" means, in the event Notes are issued, the original purchaser of such Notes, as shall be named in the Supplemental Resolution, and, in the event a note or notes evidencing a line of credit are issued, such bank or banks as shall be named in a resolution supplemental hereto.

"Other Grants" means any grant other than the EPA Grant hereafter received by the Issuer to aid in financing any Costs.

"Outstanding," when used with reference to Bonds or Notes and as of any particular date, describes all Bonds theretofore and thereupon being authenticated and delivered or all Notes theretofore and thereupon being authenticated and delivered except (i) any Bond or Note cancelled by the Bond Registrar, or Notes Registrar, at or prior to said date; (ii) any Bond or Note for the payment of which moneys, equal to its principal amount and redemption premium, if applicable, with interest to the date of maturity or redemption shall be in trust hereunder or under the Indenture, as applicable, and set aside for such payment (whether upon or prior to maturity); (iii) any Bond or Note deemed to have been paid as provided in Article X hereof or as provided in the Indenture, as applicable; and (iv) for purposes of consents or other action by a specified percentage of Bondholders or Noteholders, any Bonds or Notes registered to the Issuer.

"Parity Bonds" means additional Bonds issued under the provisions and within the limitations prescribed by Section 7.07 hereof.

"Paying Agent" means the bank or banks or other entity designated as such for the Bonds and/or the Notes in the Indenture or in the Supplemental Resolution or such entity or authority as may be designated by the Issuer.

"Private Business Use" means use directly or indirectly in a trade or business carried on by a natural person, including all persons "related" to such person within the meaning of Section 144(a)(3) of the Code, or in any activity carried on by a person other than a natural person, including all persons "related" to such person within the meaning of Section 144(a)(3) of the Code,

excluding, however, use by a state or local governmental unit and use as a member of the general public. All of the foregoing shall be determined in accordance with the Code, including, without limitation, giving due regard to "incidental use," if any, of the proceeds of the issue and/or proceeds used for "qualified improvements," if any.

"Program" means the Authority's loan program, under which the Authority purchases the water development revenue bonds of local governmental entities satisfying certain legal and other requirements with the proceeds of water development revenue bonds of the Authority.

"Project" means the acquisition and construction of certain additions, betterments and improvements for the existing sewerage facilities of the Issuer, consisting generally of a new sewage treatment plant, collection and transportation lines and all appurtenant facilities.

"Qualified Investments" means and includes any of the following:

(a) Government Obligations;

(b) Government Obligations which have been stripped of their unmatured interest coupons, interest coupons stripped from Government Obligations, and receipts or certificates evidencing payments from Government Obligations or interest coupons stripped from Government Obligations;

(c) Bonds, debentures, notes or other evidences of indebtedness issued by any of the following agencies: Banks for Cooperatives; Federal Intermediate Credit Banks; Federal Home Loan Bank System; Export-Import Bank of the United States; Federal Land Banks; Government National Mortgage Association; Tennessee Valley Authority; or Washington Metropolitan Area Transit Authority;

(d) Any bond, debenture, note, participation certificate or other similar obligations issued by the Federal National Mortgage Association to the extent such obligation is guaranteed by the Government National Mortgage Association or issued by any other federal agency and backed by the full faith and credit of the United States of America;

(e) Time accounts (including accounts evidenced by time certificates of deposit, time deposits or other similar banking arrangements) which, to the extent not insured by the FDIC or Federal Savings and Loan Insurance Corporation, shall be secured by a pledge of Government Obligations, provided, that said Government Obligations, pledged either must mature as nearly as practicable coincident with the maturity of said time accounts or must be replaced or increased so that the market value thereof is always at least equal to the principal amount of said time accounts;

(f) Money market funds or similar funds whose only assets are investments of the type described in paragraphs (a) through (e) above;

(g) Repurchase agreements, fully secured by investments of the types described in paragraphs (a) through (e) above, with banks or national banking associations which are members of FDIC or with government bond dealers recognized as primary dealers by the Federal Reserve Bank of New York, provided, that said investments securing said repurchase agreements either must mature as nearly as practicable coincident with the maturity of said repurchase agreements or must be replaced or increased so that the market value thereof is always at least equal to the principal amount of said repurchase agreements, and provided further that the holder of such repurchase agreement shall have a prior perfected security interest in the collateral therefor; must have (or its agent must have) possession of such collateral; and such collateral must be free of all claims by third parties;

(h) The West Virginia "consolidated fund" managed by the West Virginia State Board of Investments pursuant to Chapter 12, Article 6 of the West Virginia Code of 1931, as amended; and

(i) Obligations of States or political subdivisions or agencies thereof, the interest on which is exempt from federal income taxation, and

which are rated at least "A" by Moody's Investors Service, Inc. or Standard & Poor's Corporation.

"Recorder" or "City Clerk" means the Recorder of the Issuer.

"Registered Owner," "Noteholder," "Bondholder," "Holder" or any similar term means whenever used herein with respect to an outstanding Bond, Note, Bonds or Notes, the person in whose name such Bond or Note is registered.

"Registrar" means as appropriate, either the Bond Registrar or the Notes Registrar or both.

"Regulations" means temporary and permanent regulations promulgated under the Code, or any predecessor thereto.

"Sanitary Board" means the Sanitary Board of the Issuer.

"Series 1990 A Bonds" or "Series A Bonds" means the not more than \$3,000,000 in aggregate principal amount of Sewer Revenue Bonds, Series 1990 A, of the Issuer.

"Series 1990 A Bonds Reserve Account" means the Series 1990 A Bonds Reserve Account established in the Series 1990 A Bonds Sinking Fund pursuant to Section 5.02 hereof.

"Series 1990 A Bonds Reserve Requirement" means, as of any date of calculation, the maximum amount of principal and interest which will become due on the Series 1990 A Bonds in the then current or any succeeding year.

"Series 1990 A Bonds Sinking Fund" means the Series 1990 A Bonds Sinking Fund established by Section 5.02 hereof.

"Series 1990 B Bonds" or "Series B Bonds" means the not more than \$1,000,000 in aggregate principal amount of Sewer Revenue Bonds, Series 1990 B, of the Issuer.

"Series 1990 B Bonds Reserve Account" means the Series 1990 B Bonds Reserve Account established in the Series 1990 B Bonds Sinking Fund pursuant to Section 5.02 hereof.

"Series 1990 B Bonds Reserve Requirement" means, as of the date of calculation, the maximum amount of principal which will become due on the Series 1990 B Bonds in the then current or any succeeding year.

"Series 1990 B Bonds Sinking Fund" means the Series 1990 B Bonds Sinking Fund established by Section 5.02 hereof.

"State" means the State of West Virginia.

"Supplemental Resolution" means any resolution, ordinance or order of the Issuer supplementing or amending this Ordinance and, when preceded by the article "the," refers specifically to the supplemental resolutions authorizing the sale of the Notes or the Original Bonds; provided, that any matter intended by this Ordinance to be included in the Supplemental Resolution with respect to the Notes or the Original Bonds, as the case may be, and not so included may be included in another Supplemental Resolution.

"Surplus Revenues" means the Net Revenues not required by the Bond Legislation to be set aside and held for the payment of or security for the Bonds, or any other obligations of the Issuer, including the Renewal and Replacement Fund and the Reserve Accounts, the proceeds of which Bonds or other obligations are to be used to pay Costs of the Project.

"System" means the public service properties for the collection, treatment, purification or disposal of liquid or solid wastes, sewage or industrial wastes, owned by the Issuer, and any improvements or extensions thereto hereafter constructed or acquired from any sources whatsoever, and includes the Project.

"Tap Fees" means the fees, if any, paid by prospective customers of the System in order to connect thereto.

"Trustee" means the banking institution designated as trustee for the Noteholders under the Indenture, if any, its successors and assigns.

Words importing singular number shall include the plural number in each case and vice versa; words importing persons shall include firms and corporations; and words importing the masculine, feminine or neutral gender shall include any other gender.

ARTICLE II

AUTHORIZATION OF ACQUISITION  
AND CONSTRUCTION OF THE PROJECT

Section 2.01. Authorization of Acquisition and Construction of the Project. There is hereby authorized the acquisition and construction of the Project, at an estimated cost of \$4,883,049, in accordance with the plans and specifications which have been prepared by the Consulting Engineers, heretofore filed in the office of the Governing Body. The proceeds of the Notes and the Bonds hereby authorized shall be applied as provided in the Indenture, if any, and Article VI hereof, respectively.

### ARTICLE III

#### AUTHORIZATION, TERMS, EXECUTION, REGISTRATION AND SALE OF BONDS; AUTHORIZATION AND EXECUTION OF LOAN AGREEMENT.

Section 3.01. Authorization of Bonds. For the purposes of capitalizing interest on the Series 1990 A Bonds, funding a reserve account for each series of Original Bonds, paying Costs of the Project not otherwise provided for and paying certain costs of issuance of the Original Bonds and related costs, or any of such purposes, as determined by the Supplemental Resolution, there shall be issued negotiable Original Bonds of the Issuer, in an aggregate principal amount of not more than \$4,000,000. Said Bonds shall be issued in two series, to be designated respectively, "Sewer Revenue Bonds, Series 1990 A," in the aggregate principal amount of not more than \$3,000,000, and "Sewer Revenue Bonds, Series 1990 B," in the aggregate principal amount of not more than \$1,000,000, and shall have such terms as set forth hereinafter and in the Supplemental Resolution. Such Bonds shall be issued contemporaneously with or prior to issuance of the Grant Anticipation Notes, if any. The proceeds of the Bonds remaining after funding of the Reserve Accounts (if funded from Bond proceeds) and capitalization of interest, if any, shall be deposited in or credited to the Bond Construction Trust Fund established by Section 5.01 hereof.

Section 3.02. Terms of Bonds. The Bonds shall bear interest at such rate or rates, not exceeding the then legal maximum, payable semiannually on such dates; shall mature on such dates and in such amounts; and shall be redeemable, in whole or in part, all as the Issuer shall prescribe in a Supplemental Resolution. The Bonds shall be payable as to principal at the office of the Paying Agent, in any coin or currency which, on the dates of payment of principal is legal tender for the payment of public or private debts under the laws of the United States of America. Interest on the Bonds shall be paid by check or draft of the Paying Agent mailed to the registered owner thereof at the address as it appears on the books of the Bond Registrar, or by such other method as shall be mutually agreeable so long as the Authority is the Registered Owner thereof.

Unless otherwise provided by the Supplemental Resolution, the Original Bonds shall be issued in the form of a single bond for each series, fully registered to the Authority, with a debt service schedule attached, representing the aggregate principal amount of each series, and shall mature in principal installments, all as provided in the Supplemental Resolution. The Bonds of each series shall be exchangeable at the option and expense of the Holder for other fully registered Bonds of the same series in aggregate principal amount

equal to the amount of said Bonds then Outstanding and being exchanged, with principal installments or maturities, as applicable, corresponding to the dates of payment of principal installments of said Bonds; provided, that the Authority shall not be obligated to pay any expenses of such exchange.

Subsequent series of Bonds, if any, shall be issued in fully registered form and in denominations as determined by a Supplemental Resolution. The Bonds shall be dated as of the date specified in a Supplemental Resolution and shall bear interest from such date.

Section 3.03. Execution of Bonds. The Bonds shall be executed in the name of the Issuer by the Mayor, and the seal of the Issuer shall be affixed thereto or imprinted thereon and attested by the Recorder. In case any one or more of the officers who shall have signed or sealed any of the Bonds shall cease to be such officer of the Issuer before the Bonds so signed and sealed have been actually sold and delivered, such Bonds may nevertheless be sold and delivered as herein provided and may be issued as if the person who signed or sealed such Bonds had not ceased to hold such office. Any Bonds may be signed and sealed on behalf of the Issuer by such person as at the actual time of the execution of such Bonds shall hold the proper office in the Issuer, although at the date of such Bonds such person may not have held such office or may not have been so authorized.

Section 3.04. Authentication and Registration. No Bond shall be valid or obligatory for any purpose or entitled to any security or benefit under this Bond Legislation unless and until the Certificate of Authentication and Registration on such Bond, substantially in the forms set forth in Section 3.09 shall have been manually executed by the Bond Registrar. Any such executed Certificate of Authentication and Registration upon any such Bond shall be conclusive evidence that such Bond has been authenticated, registered and delivered under this Bond Legislation. The Certificate of Authentication and Registration on any Bond shall be deemed to have been executed by the Bond Registrar if manually signed by an authorized officer of the Bond Registrar, but it shall not be necessary that the same officer sign the Certificate of Authentication and Registration on all of the Bonds issued hereunder.

Section 3.05. Negotiability, Transfer and Registration. Subject to the provisions for transfer of registration set forth below, the Bonds shall be and have all of the qualities and incidents of negotiable instruments under the Uniform Commercial Code of the State of West Virginia, and each successive Holder, in accepting any of said Bonds shall be conclusively deemed to have agreed that such Bonds shall be and have all of the qualities and incidents of negotiable instruments under the Uniform Commercial Code of the State

of West Virginia, and each successive Holder shall further be conclusively deemed to have agreed that said Bonds shall be incontestable in the hands of a bona fide holder for value.

So long as any of the Bonds remain outstanding, the Issuer, through the Bond Registrar, shall keep and maintain books for the registration and transfer of the Bonds.

The registered Bonds shall be transferable only upon the books of the Bond Registrar, by the registered owner thereof in person or by his attorney duly authorized in writing, upon surrender thereto together with a written instrument of transfer satisfactory to the Bond Registrar duly executed by the registered owner or his duly authorized attorney.

In all cases in which the privilege of exchanging Bonds or transferring the registered Bonds are exercised, Bonds shall be delivered in accordance with the provisions of this Bond Legislation. All Bonds surrendered in any such exchanges or transfers shall forthwith be cancelled by the Bond Registrar. For every such exchange or transfer of Bonds, the Bond Registrar may make a charge sufficient to reimburse it for any tax, fee or other governmental charge required to be paid with respect to such exchange or transfer and the cost of preparing each new Bond upon each exchange or transfer, and any other expenses of the Bond Registrar incurred in connection therewith, which sum or sums shall be paid by the Issuer. The Bond Registrar shall not be obliged to make any such exchange or transfer of Bonds during the period commencing on the 15th day of the month preceding an interest payment date on the Bonds or, in the case of any proposed redemption of Bonds, next preceding the date of the selection of Bonds to be redeemed, and ending on such interest payment date or redemption date.

Section 3.06. Bonds Mutilated, Destroyed, Stolen or Lost.

In case any Bond shall become mutilated or be destroyed, stolen or lost, the Issuer may, in its discretion, issue, and the Bond Registrar shall, if so advised by the Issuer, authenticate and deliver, a new Bond of the same series and of like tenor as the Bonds so mutilated, destroyed, stolen or lost, in exchange and substitution for such mutilated Bond, upon surrender and cancellation of such mutilated Bond, or in lieu of and substitution for the Bond destroyed, stolen or lost, and upon the Holder's furnishing satisfactory indemnity and complying with such other reasonable regulations and conditions as the Issuer may prescribe and paying such expenses as the Issuer and the Bond Registrar may incur. All Bonds so surrendered shall be cancelled by the Bond Registrar and held for the account of the Issuer. If any such Bond shall have matured or be about to mature, instead of issuing a substitute Bond, the Issuer may pay the same, upon being indemnified

of West Virginia, and each successive Holder shall further be conclusively deemed to have agreed that said Bonds shall be incontestable in the hands of a bona fide holder for value.

So long as any of the Bonds remain outstanding, the Issuer, through the Bond Registrar, shall keep and maintain books for the registration and transfer of the Bonds.

The registered Bonds shall be transferable only upon the books of the Bond Registrar, by the registered owner thereof in person or by his attorney duly authorized in writing, upon surrender thereto together with a written instrument of transfer satisfactory to the Bond Registrar duly executed by the registered owner or his duly authorized attorney.

In all cases in which the privilege of exchanging Bonds or transferring the registered Bonds are exercised, Bonds shall be delivered in accordance with the provisions of this Bond Legislation. All Bonds surrendered in any such exchanges or transfers shall forthwith be cancelled by the Bond Registrar. For every such exchange or transfer of Bonds, the Bond Registrar may make a charge sufficient to reimburse it for any tax, fee or other governmental charge required to be paid with respect to such exchange or transfer and the cost of preparing each new Bond upon each exchange or transfer, and any other expenses of the Bond Registrar incurred in connection therewith, which sum or sums shall be paid by the Issuer. The Bond Registrar shall not be obliged to make any such exchange or transfer of Bonds during the period commencing on the 15th day of the month preceding an interest payment date on the Bonds or, in the case of any proposed redemption of Bonds, next preceding the date of the selection of Bonds to be redeemed, and ending on such interest payment date or redemption date.

Section 3.06. Bonds Mutilated, Destroyed, Stolen or Lost.  
In case any Bond shall become mutilated or be destroyed, stolen or lost, the Issuer may, in its discretion, issue, and the Bond Registrar shall, if so advised by the Issuer, authenticate and deliver, a new Bond of the same series and of like tenor as the Bonds so mutilated, destroyed, stolen or lost, in exchange and substitution for such mutilated Bond, upon surrender and cancellation of such mutilated Bond, or in lieu of and substitution for the Bond destroyed, stolen or lost, and upon the Holder's furnishing satisfactory indemnity and complying with such other reasonable regulations and conditions as the Issuer may prescribe and paying such expenses as the Issuer and the Bond Registrar may incur. All Bonds so surrendered shall be cancelled by the Bond Registrar and held for the account of the Issuer. If any such Bond shall have matured or be about to mature, instead of issuing a substitute Bond, the Issuer may pay the same, upon being indemnified

as aforesaid, and if such Bond be lost, stolen or destroyed, without surrender thereof.

Section 3.07. Bonds not to be Indebtedness of the Issuer. The Bonds shall not, in any event, be or constitute an indebtedness of the Issuer within the meaning of any constitutional or statutory provision or limitation, but shall be payable solely from the Net Revenues derived from the operation of the System as herein provided and amounts, if any, in the respective Reserve Accounts. No holder or holders of any of the Bonds shall ever have the right to compel the exercise of the taxing power of the Issuer to pay the Bonds or the interest thereon.

Section 3.08. Bonds Secured by Pledge of Net Revenues; Series 1990 B Bonds to be Junior and Subordinate to Series 1990 A Bonds. The payment of the debt service of all the Series 1990 A Bonds shall be secured forthwith equally and ratably with each other by a first lien on the Net Revenues derived from the System. The payment of the debt service of all the Series 1990 B Bonds shall also be secured forthwith equally and ratably with each other by a lien on the Net Revenues derived from the System, but such lien shall be junior and subordinate to the lien on said Net Revenues in favor of the Holders of the Series 1990 A Bonds. Such Net Revenues in an amount sufficient to pay the principal of and interest on and other payments for the Bonds and to make the payments into the Sinking Funds, the Reserve Accounts therein, the Renewal and Replacement Fund, hereinafter established, are hereby irrevocably pledged to the payment of the principal of and interest on the Bonds as the same become due.

Section 3.09. Form of Original Bonds. The text of the Bonds shall be in substantially the following forms, with such omissions, insertions and variations as may be necessary and desirable and authorized or permitted hereby, or by any Supplemental Resolution adopted prior to the issuance thereof:

[Form of Series 1990 A Bond]

UNITED STATES OF AMERICA  
STATE OF WEST VIRGINIA  
CITY OF SHINNSTON  
SEWER REVENUE BOND, SERIES 1990 A

No. AR-\_\_\_\_\_

\$\_\_\_\_\_

KNOW ALL MEN BY THESE PRESENTS: That the CITY OF SHINNSTON, a municipal corporation and political subdivision of the State of West Virginia in Harrison County of said State (the "Issuer"), for value received, hereby promises to pay, solely from the special funds provided therefor, as hereinafter set forth, to the West Virginia Water Development Authority (the "Authority") or registered assigns the sum of \_\_\_\_\_

( \$ \_\_\_\_\_ ), in installments on \_\_\_\_\_ 1 of each year as set forth on the "Schedule of Annual Debt Service" attached as Exhibit A hereto and incorporated herein by reference with interest on each installment at the rate per annum set forth on said Exhibit A.

The interest rate on each installment shall run from the original date of delivery of this Bond to the Authority and payment therefor, and until payment of such installment, and such interest shall be payable on April 1 and October 1 in each year, beginning \_\_\_\_\_, 19\_\_\_\_. Principal installments of this Bond are payable in any coin or currency which, on the respective dates of payment of such installments, is legal tender for the payment of public and private debts under the laws of the United States of America, at the office of the West Virginia Municipal Bond Commission, Charleston, West Virginia (the "Paying Agent"). The interest on this Bond is payable by check or draft of the Paying Agent mailed to the registered owner hereof at the address as it appears on the books of One Valley Bank, National Association, Charleston, West Virginia, as registrar (the "Registrar") on the 15th day of the month next preceding an interest payment date, or by such other method as shall be mutually agreeable so long as the Authority is the Registered Owner hereof.

This Bond may be redeemed prior to its stated date of maturity in whole or in part, but only with the express written consent of the Authority, and upon the terms and conditions prescribed

by, and otherwise in compliance with, the Loan Agreement between the Issuer and the Authority, dated \_\_\_\_\_, 19\_\_\_\_.

This Bond is issued (i) to pay a portion of the costs of acquisition and construction of certain additions, betterments and improvements for the existing sewerage facilities of the Issuer (the "Project"); (ii) [to pay interest on the Bonds of this Series (the "Bonds") during the construction of the Project and for not more than 6 months thereafter;] (iii) [to fund a reserve account for the Bonds;] and (iv) to pay certain costs of issuance hereof and related costs. The existing sewerage system of the Issuer, the Project, and any further additions, betterments or improvements thereto is herein called the "System." This Bond is issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 16, Article 13 of the West Virginia Code of 1931, as amended (the "Act"), and an Ordinance duly enacted by the Issuer on \_\_\_\_\_, 19\_\_\_\_, and a Supplemental Resolution duly adopted by the Issuer on \_\_\_\_\_, 19\_\_\_\_ (collectively called the "Bond Legislation"), and is subject to all the terms and conditions thereof. The Bond Legislation provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for the Bonds under the Bond Legislation.

This Bond is issued concurrently with the Sewer Revenue Bonds, Series 1990 B, of the Issuer (the "Series 1990 B Bonds"), issued in the aggregate principal amount of \$\_\_\_\_\_, which Series 1990 B Bonds are junior and subordinate with respect to lien, pledge and sources of and security for payment to the Bonds.

This Bond is payable only from and secured by a pledge of the Net Revenues (as defined in the Bond Legislation) to be derived from the operation of the System, moneys in the Reserve Account created under the Bond Legislation for the Bonds (the "Series 1990 A Bonds Reserve Account"), and unexpended proceeds of the Bonds and the Series 1990 B Bonds. Such Net Revenues shall be sufficient to pay the principal of and interest on all bonds which may be issued pursuant to the Act and which shall be set aside as a special fund hereby pledged for such purpose. This Bond does not constitute a corporate indebtedness of the Issuer within the meaning of any constitutional or statutory provisions or limitations, nor shall the Issuer be obligated to pay the same or the interest hereon except from said special fund provided from the Net Revenues, the moneys in the Series 1990 A Bonds Reserve Account and unexpended proceeds of the Bonds and the Series 1990 B Bonds. Pursuant to the Bond Legislation, the Issuer has covenanted and agreed to establish and maintain just and equitable rates and charges for the use of the System and the

services rendered thereby, which shall be sufficient, together with other revenues of the System, to provide for the reasonable expenses of operation, repair and maintenance of the System, and to leave a balance each year equal to at least 115% of the maximum amount payable in any year for principal of and interest on the Bonds, the Series 1990 B Bonds, and all other obligations secured by a lien on or payable from such revenues prior to or on a parity with the Bonds or the Series 1990 B Bonds, provided however, that so long as there exists in the Series 1990 A Bonds Reserve Account an amount at least equal to the maximum amount of principal and interest which will become due on the Bonds in the then current or any succeeding year, and in the respective reserve accounts established for the Series 1990 B Bonds and any other obligations outstanding prior to or on a parity with the Bonds or the Series 1990 B Bonds, an amount at least equal to the requirement therefor, such percentage may be reduced to 110%. The Issuer has entered into certain further covenants with the registered owners of the Bonds for the terms of which reference is made to the Bond Legislation. Remedies provided the registered owners of the Bonds are exclusively as provided in the Bond Legislation, to which reference is here made for a detailed description thereof.

Subject to the registration requirements set forth herein, this Bond is transferable, as provided in the Bond Legislation, only upon the books of the Registrar by the registered owner, or by its attorney duly authorized in writing, upon the surrender of this Bond together with a written instrument of transfer satisfactory to the Bond Registrar duly executed by the registered owner or its attorney duly authorized in writing.

Subject to the registration requirements set forth herein, this Bond, under the provision of the Act is, and has all the qualities and incidents of, a negotiable instrument under the Uniform Commercial Code of the State of West Virginia.

All money received from the sale of this Bond, after reimbursement and repayment of all amounts advanced for preliminary expenses as provided by law, shall be applied solely to the payment of the Costs of the Project described in the Bond Legislation, and there shall be and hereby is created and granted a lien upon such moneys, until so applied, in favor of the owner of this Bond.

IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all acts, conditions and things required to exist, happen and be performed precedent to and in the issuance of this Bond have existed, have happened, and have been performed in due time, form and manner as required by law, and that the amount of this Bond, together with all

other obligations of the Issuer, does not exceed any limit prescribed by the Constitution or statutes of the State of West Virginia and that a sufficient amount of the revenues of the System has been pledged to and will be set aside into said special fund by the Issuer for the prompt payment of the principal of and interest on this Bond.

All provisions of the Bond Legislation, resolutions and statutes under which this Bond is issued shall be deemed to be a part of the contract evidenced by this Bond to the same extent as if written fully herein.

IN WITNESS WHEREOF, the CITY OF SHINNSTON has caused this Bond to be signed by its Mayor and its corporate seal to be hereunto affixed and attested by its Recorder, and has caused this Bond to be dated \_\_\_\_\_, 19\_\_\_\_.

[SEAL]

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
Recorder

(Form of)

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Series 1990 A Bonds described in the within-mentioned Bond Legislation and has been duly registered in the name of the registered owner set forth above, as of the date set forth below.

Date: \_\_\_\_\_

ONE VALLEY BANK, NATIONAL ASSOCIATION,  
as Registrar

By \_\_\_\_\_  
Its Authorized Officer

EXHIBIT A

SCHEDULE OF ANNUAL DEBT SERVICE

(Form of)

ASSIGNMENT

FOR VALUE RECEIVED the undersigned sells, assigns, and transfers unto

the within Bond and does hereby irrevocably constitute and appoint \_\_\_\_\_, Attorney to transfer the said Bond on the books kept for registration of the within Bond of the said Issuer with full power of substitution in the premises.

Dated: \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
In the presence of:

\_\_\_\_\_

[Form of Series 1990 B Bond]

UNITED STATES OF AMERICA  
STATE OF WEST VIRGINIA  
CITY OF SHINNSTON  
SEWER REVENUE BOND, SERIES 1990 B

No. BR-\_\_\_\_\_

\$\_\_\_\_\_

KNOW ALL MEN BY THESE PRESENTS: That the CITY OF SHINNSTON, a municipal corporation and political subdivision of the State of West Virginia in Harrison County of said State (the "Issuer"), for value received, hereby promises to pay, solely from the special funds provided therefor, as hereinafter set forth, to the West Virginia Water Development Authority (the "Authority") or registered assigns the sum of \_\_\_\_\_

(\$\_\_\_\_\_), in annual installments on \_\_\_\_\_ 1 of each year as set forth on the "Schedule of Annual Debt Service" attached as Exhibit A hereto and incorporated herein by reference, without interest.

Principal installments of this Bond are payable in any coin or currency which, on the respective dates of payment of such installments, is legal tender for the payment of public and private debts under the laws of the United States of America, at the office of the West Virginia Municipal Bond Commission, Charleston, West Virginia (the "Paying Agent").

This Bond may be redeemed prior to its stated date of maturity in whole or in part, but only with the express written consent of the Authority, and upon the terms and conditions prescribed by, and otherwise in compliance with, the Supplemental Loan Agreement between the Issuer and the Authority, dated \_\_\_\_\_, 19\_\_\_\_.

This Bond is issued (i) to pay a portion of the costs of acquisition and construction of certain additions, betterments and improvements for the existing sewerage facilities of the Issuer (the "Project"); (ii) [to fund a reserve account for the Bonds of this Series (the "Bonds");] and (iii) to pay certain costs of issuance hereof and related costs. The existing sewerage system of the Issuer, the Project, and any further additions, betterments or improvements thereto is herein called the "System." This Bond is issued under the

authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 16, Article 13 of the West Virginia Code of 1931, as amended (the "Act"), and an Ordinance duly enacted by the Issuer on \_\_\_\_\_, 19\_\_\_\_, and a Supplemental Resolution duly adopted by the Issuer on \_\_\_\_\_, 19\_\_\_\_ (collectively called the "Bond Legislation"), and is subject to all the terms and conditions thereof. The Bond Legislation provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for the Bonds under the Bond Legislation.

THIS BOND IS JUNIOR AND SUBORDINATE WITH RESPECT TO LIEN, PLEDGE AND SOURCES OF AND SECURITY FOR PAYMENT TO THE OUTSTANDING SEWER REVENUE BONDS, SERIES 1990 A, OF THE ISSUER, ISSUED CONCURRENTLY HERewith IN THE AGGREGATE PRINCIPAL AMOUNT OF \$\_\_\_\_\_ AND DESCRIBED IN THE BOND LEGISLATION (THE "SERIES 1990 A BONDS").

This Bond is payable only from and secured by a pledge of the Net Revenues (as defined in the Bond Legislation) to be derived from the operation of the System after there has first been paid from said Net Revenues all payments then due and owing on account of the Series 1990 A Bonds, all moneys in the reserve account created under the Bond Legislation for the Bonds (the "Series 1990 B Bonds Reserve Account") and unexpended proceeds of the Bonds. Such Net Revenues shall be sufficient to pay the principal of and interest on all bonds which may be issued pursuant to the Act and which shall be set aside as a special fund hereby pledged for such purpose. This Bond does not constitute a corporate indebtedness of the Issuer within the meaning of any constitutional or statutory provisions or limitations, nor shall the Issuer be obligated to pay the same, except from said special fund provided from the Net Revenues, the moneys in the Series 1990 B Bonds Reserve Account and unexpended Bond proceeds. Pursuant to the Bond Legislation, the Issuer has covenanted and agreed to establish and maintain just and equitable rates and charges for the use of the System and the services rendered thereby, which shall be sufficient, together with other revenues of the System, to provide for the reasonable expenses of operation, repair and maintenance of the System, and to leave a balance each year equal to at least 115% of the maximum amount payable in any year for principal of and interest, if any, on the Bonds, the Series 1990 A Bonds and all other obligations secured by a lien on or payable from such revenues prior to or on a parity therewith, provided however, that so long as there exists in the Series 1990 B Bonds Reserve Account and the reserve account established for the Series 1990 A Bonds, respectively, amounts at least equal to the maximum amount of principal and interest, if any,

which will become due on the Bonds and the Series 1990 A Bonds in the then current or any succeeding year, and any reserve account for any such prior or parity obligations is funded at least at the requirement therefor, such percentage may be reduced to 110%. The Issuer has entered into certain further covenants with the registered owners of the Bonds for the terms of which reference is made to the Bond Legislation. Remedies provided the registered owners of the Bonds are exclusively as provided in the Bond Legislation, to which reference is here made for a detailed description thereof.

Subject to the registration requirements set forth herein, this Bond is transferable, as provided in the Bond Legislation, only upon the books of One Valley Bank, National Association, Charleston, West Virginia, as registrar (the "Registrar") by the registered owner, or by its attorney duly authorized in writing, upon the surrender of this Bond together with a written instrument of transfer satisfactory to the Bond Registrar duly executed by the registered owner or its attorney duly authorized in writing.

Subject to the registration requirements as set forth herein, this Bond, under the provision of the Act is, and has all the qualities and incidents of, a negotiable instrument under the Uniform Commercial Code of the State of West Virginia.

All money received from the sale of this Bond, after reimbursement and repayment of all amounts advanced for preliminary expenses as provided by law, shall be applied solely to the payment of the Costs of the Project described in the Bond Legislation, and there shall be and hereby is created and granted a lien upon such moneys, until so applied, in favor of the registered owners of the Bonds, which lien is subordinate to the lien in favor of the registered owners of the Series 1990 A Bonds.

IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all acts, conditions and things required to exist, happen and be performed precedent to and in the issuance of this Bond have existed, have happened, and have been performed in due time, form and manner as required by law, and that the amount of this Bond, together with all other obligations of the Issuer, does not exceed any limit prescribed by the Constitution or statutes of the State of West Virginia and that a sufficient amount of the revenues of the System has been pledged to and will be set aside into said special fund by the Issuer for the prompt payment of the principal of this Bond.

All provisions of the Bond Legislation, resolutions and statutes under which this Bond is issued shall be deemed to be a part

of the contract evidenced by this Bond to the same extent as if written fully herein.

IN WITNESS WHEREOF, the CITY OF SHINNSTON has caused this Bond to be signed by its Mayor and its corporate seal to be hereunto affixed and attested by its Recorder, and has caused this Bond to be dated \_\_\_\_\_, 19\_\_\_\_\_.

[SEAL]

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
Recorder

(Form of)

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Series 1990 B Bonds described in the within-mentioned Bond Legislation and has been duly registered in the name of the registered owner set forth above, as of the date set forth below.

Date: \_\_\_\_\_

ONE VALLEY BANK, NATIONAL ASSOCIATION,  
as Registrar

By \_\_\_\_\_  
Its Authorized Officer

EXHIBIT A

SCHEDULE OF ANNUAL DEBT SERVICE

(Form of)

ASSIGNMENT

FOR VALUE RECEIVED the undersigned sells, assigns, and transfers unto

the within Bond and does hereby irrevocably constitute and appoint \_\_\_\_\_, Attorney to transfer the said Bond on the books kept for registration of the within Bond of the said Issuer with full power of substitution in the premises.

Dated: \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
In the presence of:

\_\_\_\_\_

Section 3.10. Sale of Original Bonds; Ratification of Execution of Loan Agreement with Authority. The Original Bonds shall be sold to the Authority, pursuant to the terms and conditions of the Loan Agreement. If not so authorized by previous ordinance or resolution, the Mayor is specifically authorized and directed to execute the Loan Agreement in the form attached hereto as "Exhibit A" and made a part hereof, and the Recorder is directed to affix the seal of the Issuer, attest the same and deliver the Loan Agreement to the Authority, and any such prior execution and delivery is hereby authorized, ratified and approved.

Section 3.11. "Amended Schedule A" Filing; Tender of Series 1990 B Bonds. Upon completion of acquisition and construction of the Project, the Issuer will file with the Authority a schedule in substantially the form of the "Amended Schedule A" to the Loan Agreement, setting forth the actual costs of the Project and sources of funds therefor. In the event such schedule reflects an excess of funding for the Project, or if the Authority is otherwise advised of an excess, the Authority may tender the Series 1990 B Bonds to the Issuer for payment in an amount equal to such excess. Notwithstanding the foregoing, if the Issuer has Notes outstanding upon completion of construction of the Project, it will advise the Authority of such fact and submit a second schedule to the Authority upon payment of such Notes, and the Authority will not tender its Series 1990 B Bonds for payment until the outstanding Notes have been paid.

## ARTICLE IV

### INTERIM CONSTRUCTION FINANCING

Section 4.01. Authorization and General Terms. In order to pay certain Costs of the Project pending receipt of the Grant Receipts or issuance of the Bonds, the Issuer may issue and sell its Notes in an aggregate principal amount not to exceed \$3,000,000. The Notes may be in the form of bond anticipation notes, grant anticipation notes or as evidence of a line of credit from a commercial bank or other lender, at the discretion of the Issuer, and as shall be set forth in a resolution supplemental hereto. The Notes shall bear interest from the date or dates, at such rate or rates, payable on such dates and shall mature on such date or dates and be subject to such prepayment or redemption, all as provided in the Indenture or supplemental resolution, as applicable.

Section 4.02. Terms of and Security for Notes; Trust Indenture. The Notes, if issued, shall be issued in fully registered form, in the denominations, with such terms and secured in the manner set forth in the Indenture, if applicable (which Indenture in the form to be executed and delivered by the Issuer shall be approved by a supplemental resolution), or supplemental resolution, if no Indenture is used.

Section 4.03. Notes are Special Obligations. The Notes shall be special obligations of the Issuer payable as to principal and interest solely from proceeds of the Bonds or the Net Revenues (if issued in the form of bond anticipation notes) or the Grant Receipts, the Surplus Revenues, the letter of credit proceeds and other sources described in the Indenture or supplemental resolution (if issued in the form of grant anticipation notes or a line of credit). The Notes do not and shall not constitute an indebtedness of the Issuer within the meaning of any constitutional or statutory provisions. The general funds of the Issuer are not liable, and neither the full faith and credit nor the taxing power of the Issuer is pledged for the payment of the Notes. The Holders of the Notes shall never have the right to compel the forfeiture of any property of the Issuer. The Notes shall not be a debt of the Issuer; nor a legal or equitable pledge, charge, lien or encumbrance upon any property of the Issuer or upon any of its income, receipts or revenues except as set forth in the Indenture and the Supplemental Resolution.

Section 4.04. Letters of Credit. As additional security for any Notes, the Issuer may obtain a letter or letters of credit from a bank or banks, pursuant to which such bank or banks would agree to pay to the Trustee, upon presentation by the Trustee of certain

certificates, the sum or sums set forth therein but not to exceed \$500,000 in the aggregate. In the event of a draw under any such letter of credit, the Issuer shall issue its refunding notes to the bank issuing such letter of credit. Any such letter or letters of credit shall be authorized and shall have such terms as shall be set forth in a resolution supplemental hereto.

ARTICLE V

FUNDS AND ACCOUNTS; SYSTEM REVENUES AND APPLICATION THEREOF

Section 5.01. Establishment of Funds and Accounts with Depository Bank. The following special funds or accounts are created with and shall be held by the Depository Bank separate and apart from all other funds or accounts of the Depository Bank and from each other:

- (1) Revenue Fund;
- (2) Renewal and Replacement Fund; and
- (3) Bond Construction Trust Fund.

Section 5.02. Establishment of Funds and Accounts with Commission. The following special funds or accounts are hereby created with the Commission:

- (1) Series 1990 A Bonds Sinking Fund;
  - (a) Within the Series 1990 A Bonds Sinking Fund, the Series 1990 A Bonds Reserve Account; and
- (2) Series 1990 B Bonds Sinking Fund;
  - (a) Within the Series 1990 B Bonds Sinking Fund, the Series 1990 B Bonds Reserve Account.

Section 5.03. System Revenues; Flow of Funds. A. The entire Gross Revenues derived from the operation of the System shall be deposited upon receipt in the Revenue Fund. The Revenue Fund shall constitute a trust fund for the purposes provided in this Bond Legislation and shall be kept separate and distinct from all other funds of the Issuer and the Depository Bank and used only for the purposes and in the manner herein provided.

- (1) The Issuer shall first, each month, pay from the Revenue Fund the Operating Expenses of the System.
- (2) The Issuer shall next, on the first day of each month, commencing 7 months prior to the first date of payment of interest on the Series 1990 A Bonds for which interest has not been capitalized, apportion and set apart out of the Revenue Fund and remit to the Commission, for

deposit in the Series 1990 A Bonds Sinking Fund, a sum equal to 1/6th of the amount of interest which will become due on said Series 1990 A Bonds on the next ensuing semiannual interest payment date; provided, that, in the event the period to elapse between the date of such initial deposit in the Series 1990 A Bonds Sinking Fund and the next semiannual interest payment date is less than 7 months, then such monthly payments shall be increased proportionately to provide, one month prior to the next semiannual interest payment date, the required amount of interest coming due on such date.

(3) The Issuer shall next, on the first day of each month, commencing 13 months prior to the first date of payment of principal on the Series 1990 A Bonds, apportion and set apart out of the Revenue Fund and remit to the Commission for deposit in the Series 1990 A Bonds Sinking Fund, a sum equal to 1/12th of the amount of principal which will mature and become due on said Series 1990 A Bonds on the next ensuing principal payment date; provided that, in the event the period to elapse between the date of such initial deposit in the Series 1990 A Bonds Sinking Fund and the next annual principal payment date is less than 13 months then such monthly payments shall be increased proportionately to provide, one month prior to the next annual principal payment date, the required amount of principal coming due on such date.

(4) The Issuer shall next, on the first day of each month, commencing 13 months prior to the first date of payment of principal of the Series 1990 A Bonds, if not fully funded upon issuance of the Series 1990 A Bonds, apportion and set apart out of the Revenue Fund and remit to the Commission for deposit in the Series 1990 A Bonds Reserve Account, an amount equal to 1/120 of the Series 1990 A Bonds Reserve Requirement; provided, that no further payments shall be made into the Series 1990 A Bonds Reserve Account when there shall have been deposited therein, and as long as there shall remain on deposit therein, an amount equal to the Series 1990 A Bonds Reserve Requirement.

(5) From the moneys remaining in the Revenue Fund, the Issuer shall next, on the first day of each month, transfer to the Renewal and Replacement Fund, a sum equal to 2 1/2% of the Gross Revenues each month, exclusive of any payments for account of any Reserve Account. All funds in the Renewal and Replacement Fund shall be kept apart from all

other funds of the Issuer or of the Depository Bank and shall be invested and reinvested in accordance with Article VIII hereof. Withdrawals and disbursements may be made from the Renewal and Replacement Fund for replacements, emergency repairs, improvements or extensions to the System; provided, that any deficiencies in the Series 1990 A Bonds Reserve Account [except to the extent such deficiency exists because the required payments into such account have not, as of the date of determination of a deficiency, funded such account to the maximum extent required hereof] shall be promptly eliminated with moneys from the Renewal and Replacement Fund.

(6) The Issuer shall next, on the first day of each month, commencing 13 months prior to the first date of payment of principal on the Series 1990 B Bonds, apportion and set apart out of the Revenue Fund and remit to the Commission for deposit in the Series 1990 B Bonds Sinking Fund, a sum equal to 1/12th of the amount of principal which will mature and become due on said Series 1990 B Bonds on the next ensuing principal payment date; provided that, in the event the period to elapse between the date of such initial deposit in the Series 1990 B Bonds Sinking Fund and the next annual principal payment date is less than 13 months then such monthly payments shall be increased proportionately to provide, one month prior to the next annual principal payment date, the required amount of principal coming due on such date.

(7) The Issuer shall next, on the first day of each month, commencing 13 months prior to the first date of payment of principal of the Series 1990 B Bonds, if not fully funded upon issuance of the Series 1990 B Bonds, apportion and set apart out of the Revenue Fund and remit to the Commission for deposit in the Series 1990 B Bonds Reserve Account, an amount equal to 1/120 of the Series 1990 B Bonds Reserve Requirement; provided, that no further payments shall be made into the Series 1990 B Bonds Reserve Account when there shall have been deposited therein, and as long as there shall remain on deposit therein, an amount equal to the Series 1990 B Bonds Reserve Requirement.

Moneys in the Series 1990 A Bonds Sinking Fund and the Series 1990 B Bonds Sinking Fund shall be used only for the purposes of paying principal of and interest, if any, on the respective series of Bonds as the same shall become due. Moneys in the Series 1990 A Bonds Reserve Account and the

Series 1990 B Bonds Reserve Account shall be used only for the purpose of paying principal of and interest, if any, on the respective series of Bonds, as the same shall come due, when other moneys in the attendant Sinking Fund are insufficient therefor, and for no other purpose.

All investment earnings on moneys in the several Sinking Funds and Reserve Accounts shall be returned, not less than once each year, by the Commission to the Issuer, and such amounts shall, during construction of the Project, be deposited in the Bond Construction Trust Fund, and following completion of construction of the Project, shall be deposited in the Revenue Fund and applied in full, first to the next ensuing interest payments, if any, due on the respective series of Bonds, and then to the next ensuing principal payments due thereon.

Any withdrawals from the Series 1990 A Bonds Reserve Account which result in a reduction in the balance of the Series 1990 A Bonds Reserve Account to below the Series 1990 A Bonds Reserve Requirement shall be subsequently restored from the first Net Revenues available after all required payments to the Series 1990 A Bonds Sinking Fund for payment of debt service on the Series 1990 A Bonds have been made in full.

Any withdrawals from the Series 1990 B Bonds Reserve Account which result in a reduction in the balance of the Series 1990 B Bonds Reserve Account to below the Series 1990 B Bonds Reserve Requirement shall be subsequently restored from the first Net Revenues available after all required payments to the Series 1990 A Bonds Sinking Fund, the Series 1990 A Bonds Reserve Account, the Renewal and Replacement Fund and the Series 1990 B Bonds Sinking Fund have been made in full.

As and when additional Bonds ranking on a parity with the Bonds are issued, provision shall be made for additional payments into the respective Sinking Fund sufficient to pay the interest on such additional parity Bonds and accomplish retirement thereof at maturity and to accumulate a balance in the appropriate Reserve Account in an amount equal to the maximum provided and required to be paid into the concomitant Sinking Fund in any year for account of the Bonds of such series, including such additional Bonds which by their terms are payable from such Sinking Fund.

The Issuer shall not be required to make any further payments into the Series 1990 A Bonds Sinking Fund, or the Series 1990 B Bonds Sinking Fund or into the Reserve Accounts therein when the aggregate amount of funds in said respective Sinking Funds and Reserve Accounts are at least equal to the aggregate principal amount of the respective Bonds issued pursuant to this Bond Legislation then Outstanding and all interest to accrue until the respective maturities thereof.

The Commission is hereby designated as the fiscal agent for the administration of the Sinking Funds created hereunder, and all amounts required for said Sinking Funds shall be remitted to the Commission from the Revenue Fund by the Issuer at the times provided herein.

The payments into the Sinking Funds shall be made on the first day of each month, except that when the first day of any month shall be a Sunday or legal holiday then such payments shall be made on the next succeeding business day, and all such payments shall be remitted to the Commission with appropriate instructions as to the custody, use and application thereof consistent with the provisions of this Bond Legislation.

Moneys in the Reserve Accounts shall be invested and reinvested by the Commission in accordance with Section 8.01 hereof.

The Sinking Funds, including the Reserve Accounts therein, shall be used solely and only for, and are hereby pledged for, the purpose of servicing the respective Bonds and any additional Bonds ranking on a parity therewith that may be issued and Outstanding under the conditions and restrictions hereinafter set forth.

B. Whenever all of the required and provided transfers and payments from the Revenue Fund into the several special funds, as hereinbefore provided, are current and there remains in said Revenue Fund a balance in excess of the estimated amounts required to be so transferred and paid into the Sinking Funds, including the Reserve Accounts therein and the Renewal and Replacement Fund during the following month or such other period as required by law, such excess shall be considered Surplus Revenues. Surplus Revenues may be used for any lawful purpose of the System, including, but not limited to, payment to the Trustee for deposit in the Notes Debt Service Fund.

C. The Issuer shall remit from the Revenue Fund to the Commission, the Registrar, the Paying Agent or the Depository Bank, on such dates as the Commission, the Registrar, the Paying Agent or the Depository Bank, as the case may be, shall require, such additional sums as shall be necessary to pay the Depository Bank's charges and the Paying Agent fees then due.

D. The moneys in excess of the sum insured by the maximum amounts insured by FDIC in the Revenue Fund and the Renewal and Replacement Fund shall at all times be secured, to the full extent thereof in excess of such insured sum, by Qualified Investments as shall be eligible as security for deposits of state and municipal funds under the laws of the State.

E. If on any monthly payment date the revenues are insufficient to place the required amount in any of the funds and accounts as hereinabove provided, the deficiency shall be made up in the subsequent payments in addition to the payments which would otherwise be required to be made into the funds and accounts on the subsequent payment dates; provided, however, that the priority of curing deficiencies in the funds and accounts herein shall be in the same order as payments are to be made pursuant to this Section 5.03 and the Net Revenues shall be applied to such deficiencies before being applied to any other payments hereunder.

F. All remittances made by the Issuer to the Commission shall clearly identify the fund or account into which each amount is to be deposited.

G. The Gross Revenues of the System shall only be used for purposes of the System.

H. All Tap Fees shall be deposited by the Issuer, as received, in the Bond Construction Trust Fund, and following completion of the Project, shall be deposited in the Revenue Fund and may be used for any lawful purpose of the System, provided that, in the event Notes are issued, Tap Fees may, with the written consent of the Authority be deposited otherwise.

## ARTICLE VI

### BOND PROCEEDS; CONSTRUCTION DISBURSEMENTS

Section 6.01. Application of Bond Proceeds; Pledge of Unexpended Bond Proceeds. From the moneys received from the sale of any or all of the Original Bonds, the following amounts shall be first deducted and deposited in the order set forth below:

A. From the proceeds of the Series 1990 A Bonds, there shall first be deposited with the Commission in the Series 1990 A Bonds Sinking Fund, the amount, if any, specified in the Supplemental Resolution as capitalized interest; provided, that such amount may not exceed the amount necessary to pay interest on the Series 1990 A Bonds for the period commencing on the date of issuance of the Bonds and ending 6 months after the estimated date of completion of construction of the Project.

B. Next, from the proceeds of the Series 1990 A Bonds, there shall be deposited with the Commission in the Series 1990 A Bonds Reserve Account and from the proceeds of the Series 1990 B Bonds, there shall be deposited with the Commission in the Series 1990 B Reserve Account the respective sums, if any, set forth in the Supplemental Resolution for funding of the Reserve Accounts.

C. Next, from the proceeds of the Series 1990 A Bonds, there shall first be credited to the Bond Construction Trust Fund and then paid, any and all borrowings by the Issuer made for the purpose of temporarily financing a portion of the Costs of the Project, including interest accrued thereon to the date of such payment, not otherwise paid from funds of the Issuer.

D. The remaining moneys derived from the sale of the Bonds shall be deposited with the Depository Bank in the Bond Construction Trust Fund and applied solely to payment of Costs of the Project in the manner set forth in Section 6.02.

E. The Depository Bank shall act as a trustee and fiduciary for the Bondholder with respect to the Bond Construction Trust Fund and shall comply with all requirements with respect to the disposition of the Bond Construction Trust Fund set forth in the Bond Legislation. Moneys in the Bond Construction Trust Fund shall be used solely to pay Costs of the Project and until so expended, are hereby pledged as additional security for the Series 1990 A Bonds, and thereafter for the Series 1990 B Bonds. In the event that Notes are issued, the disposition of funds in the Bonds Construction Trust Fund

may be modified from that set forth herein, with the written consent of the Authority.

Section 6.02. Disbursements From the Bond Construction Trust Fund. Payments for Costs of the Project shall be made monthly.

Except as provided in Section 6.01 hereof, disbursements from the Bond Construction Trust Fund (except for the costs of issuance of the Original Bonds which shall be made upon request of the Issuer), shall be made only after submission to the Depository Bank of a certificate, signed by an Authorized Officer and the Consulting Engineers, stating:

(A) That none of the items for which the payment is proposed to be made has formed the basis for any disbursement theretofore made;

(B) That each item for which the payment is proposed to be made is or was necessary in connection with the Project and constitutes a Cost of the Project;

(C) That each of such costs has been otherwise properly incurred; and

(D) That payment for each of the items proposed is then due and owing.

In case any contract provides for the retention of a portion of the contract price, the Depository Bank shall disburse from the Bond Construction Trust Fund only the net amount remaining after deduction of any such portion. All payments made from the Bond Construction Trust Fund shall be presumed by the Depository Bank to be made for the purposes set forth in said certificate, and the Depository Bank shall not be required to monitor the application of disbursements from the Bond Construction Trust Fund. The Consulting Engineers shall from time to time file with the Depository Bank written statements advising the Depository Bank of its then authorized representative.

Pending such application, moneys in the Bond Construction Trust Fund, including any accounts therein, shall be invested and reinvested in Qualified Investments at the written direction of the Issuer.

After completion of the Project, as certified by the Consulting Engineers, the Depository Bank shall transfer any moneys remaining in the Bond Construction Trust Fund to the Series 1990 A Bonds Reserve Account, and when fully funded to the Series 1990 B

Bonds Reserve Account, and when both Reserve Accounts are fully funded, shall return such remaining moneys to the Issuer for deposit in the Revenue Fund. The Issuer shall thereafter, apply such moneys in full, first to the next ensuing interest payments, if any, due on the respective Series of Bonds and thereafter to the next ensuing principal payments due thereon. Notwithstanding the foregoing, if the Authority tenders any of its Series 1990 B Bonds to the Issuer pursuant to the provisions of the Supplemental Loan Agreement, such moneys shall be applied to the purchase of such Series 1990 B Bonds.

## ARTICLE VII

### ADDITIONAL COVENANTS OF THE ISSUER

Section 7.01. General Covenants of the Issuer. All the covenants, agreements and provisions of this Bond Legislation shall be and constitute valid and legally binding covenants of the Issuer and shall be enforceable in any court of competent jurisdiction by any Holder or Holders of the Bonds. In addition to the other covenants, agreements and provisions of this Bond Legislation, the Issuer hereby covenants and agrees with the Holders of the Bonds as hereinafter provided in this Article VII. All such covenants, agreements and provisions shall be irrevocable, except as provided herein, as long as any of said Bonds or the interest thereon is Outstanding and unpaid.

Until the payment in full of the principal of and interest on the Notes when due, and to the extent they do not materially adversely affect Bondholders, the covenants, agreements and provisions contained in this Bond Legislation shall, where applicable, also inure to the benefit of the Holders of the Notes and the Trustee therefor and constitute valid and legally binding covenants of the Issuer, enforceable in any court of competent jurisdiction by the Trustee or any Holder or Holders of said Notes as prescribed in the Indenture; provided, that Section 7.09 shall not be applied to the Grant Anticipation Notes.

Section 7.02. Bonds and Notes not to be Indebtedness of the Issuer. Neither the Bonds nor the Notes shall be or constitute an indebtedness of the Issuer within the meaning of any constitutional, statutory or charter limitation of indebtedness, but shall be payable solely from the funds pledged for such payment by this Bond Legislation. No Holder or Holders of any Bonds or Notes, shall ever have the right to compel the exercise of the taxing power of the Issuer to pay said Bonds or Notes or the interest thereon.

Section 7.03. Bonds Secured by Pledge of Net Revenues. The payment of the debt service of the Series 1990 A Bonds issued hereunder shall be secured forthwith equally and ratably by a first lien on the Net Revenues derived from the operation of the System. The payment of the debt service of the Series 1990 B Bonds issued hereunder shall be secured forthwith equally and ratably by a lien on said Net Revenues, but such lien shall be junior and subordinate to the lien on said Net Revenues in favor of the Holders of the Series 1990 A Bonds. The revenues derived from the System, in an amount sufficient to pay the principal of and interest on the Bonds and to make the payments into the Sinking Funds, including the Reserve

Accounts therein, and all other payments provided for in the Bond Legislation are hereby irrevocably pledged, in the manner provided herein, to the payment of the principal of and interest on the Bonds as the same become due, and for the other purposes provided in the Bond Legislation.

Section 7.04. Initial Schedule of Rates and Charges. The initial schedule of rates and charges for the services and facilities of the System shall be as set forth in the ordinance of the Issuer enacted \_\_\_\_\_, 19\_\_\_\_\_.

Section 7.05. Sale of the System. Except as otherwise required by State law, the System may not be sold, mortgaged, leased or otherwise disposed of except as a whole, or substantially as a whole, and only if the net proceeds to be realized shall be sufficient to pay fully all the Bonds and Notes, if any, Outstanding, or to effectively defease this Bond Legislation in accordance with Section 10.01 hereof and, if entered into and not previously defeased, the Indenture in accordance with Section 8.01 thereof. The proceeds from any such sale, mortgage, lease or other disposition of the System shall, with respect to the Bonds, immediately be remitted to the Commission for deposit in the Sinking Funds, and, with the written permission of the Authority, or in the event the Authority is no longer a Bondholder, the Issuer shall direct the Commission to apply such proceeds to the payment of principal at maturity of and interest on the Bonds. Any balance remaining after the payment of all the Bonds and interest thereon shall be remitted to the Issuer by the Commission unless necessary for the payment of other obligations of the Issuer payable out of the revenues of the System. With respect to the Notes, such proceeds in an amount sufficient to pay the Notes in full shall be applied to the payment of the Notes, either at maturity or, if allowable under the Supplemental Resolution or Indenture, prior thereto.

The foregoing provision notwithstanding, the Issuer shall have and hereby reserves the right to sell, lease or otherwise dispose of any of the property comprising a part of the System hereinafter determined in the manner provided herein to be no longer necessary, useful or profitable in the operation thereof. Prior to any such sale, lease or other disposition of such property, if the amount to be received therefor, together with all other amounts received during the same Fiscal Year for such sales, leases or other dispositions of such properties, is not in excess of \$10,000, the Issuer shall, by resolution, determine that such property comprising a part of the System is no longer necessary, useful or profitable in the operation thereof and may then provide for the sale of such property. The proceeds of any such sale shall be deposited in the Renewal and Replacement Fund. If the amount to be received from such sale, lease

or other disposition of said property, together with all other amounts received during the same Fiscal Year for such sales, leases or other dispositions of such properties, shall be in excess of \$10,000 but not in excess of \$50,000, the Issuer shall first, determine upon consultation with the Consulting Engineers that such property comprising a part of the System is no longer necessary, useful or profitable in the operation thereof and may then, if it be so advised, by resolution duly adopted, authorize such sale, lease or other disposition of such property upon public bidding. The proceeds derived from any such sale, lease or other disposition of such property, aggregating during such Fiscal Year in excess of \$10,000 and not in excess of \$50,000, shall with the written consent of the Authority, be remitted by the Issuer to the Commission for deposit in the Sinking Fund and shall be applied only to the purchase of Bonds of the last maturities then Outstanding at prices not greater than the par value thereof plus 3% of such par value or otherwise. Such payment of such proceeds into the Sinking Fund or the Renewal and Replacement Fund shall not reduce the amounts required to be paid into said funds by other provisions of this Bond Legislation. No sale, lease or other disposition of the properties of the System shall be made by the Issuer if the proceeds to be derived therefrom, together with all other amounts received during the same Fiscal Year for such sales, leases, or other dispositions of such properties, shall be in excess of \$50,000 and insufficient to pay all Bonds then Outstanding without the prior approval and consent in writing of the Holders, or their duly authorized representatives, of over 50% in amount of the Bonds then Outstanding and the Consulting Engineers. The Issuer shall prepare the form of such approval and consent for execution by the then Holders of the Bonds for the disposition of the proceeds of the sale, lease or other disposition of such properties of the System.

Section 7.06. Issuance of Other Obligations Payable Out of Revenues and General Covenant Against Encumbrances. Except as provided in this Section 7.06 and in Section 7.07B, the Issuer shall not issue any obligations whatsoever with a lien on or otherwise payable from any source of payment pledged originally to the Notes issued under the Indenture or supplemental resolution prior to or on a parity with the lien on behalf of such Notes until such Notes have been defeased in accordance with the provisions of the Indenture and the Bond Legislation; and, so long as any of the Bonds are Outstanding, the Issuer shall not issue any other obligations whatsoever payable from the revenues of the System which rank prior to, or equally, as to lien on and source of and security for payment from such revenues with the Bonds; provided, however, that additional Bonds on a parity with the Series 1990 B Bonds only may be issued as provided for in Section 7.07 hereof. All obligations issued by the Issuer after the issuance of the Bonds and payable from the revenues of the System, except such additional parity Bonds, shall contain an

express statement that such obligations are junior and subordinate, as to lien on and source of and security for payment from such revenues and in all other respects, to the Series 1990 A Bonds and the Series 1990 B Bonds; provided, that no such subordinate obligations shall be issued unless all payments required to be made into the Reserve Accounts, the Renewal and Replacement Fund at the time of the issuance of such subordinate obligations have been made and are current.

Except as provided above, the Issuer shall not create, or cause or permit to be created, any debt, lien, pledge, assignment, encumbrance or any other charge having priority over or being on a parity with the lien of the Bonds, and the interest thereon, upon any of the income and revenues of the System pledged for payment of the Bonds and the interest thereon in this Bond Legislation, or upon the System or any part thereof.

Section 7.07. Parity Bonds. A. No Parity Bonds, payable out of the revenues of the System, shall be issued after the issuance of any Bonds pursuant to this Bond Legislation, except under the conditions and in the manner herein provided.

All Parity Bonds issued hereunder shall be on a parity in all respects with the Series 1990 B Bonds. No Parity Bonds shall be issued which shall be payable out of the revenues of the System on a parity with the Series 1990 A Bonds, unless the Series 1990 B Bonds are no longer outstanding.

No such Parity Bonds shall be issued except for the purpose of financing the costs of the construction or acquisition of extensions, improvements or betterments to the System or refunding one or more series of Bonds issued pursuant hereto, or both such purposes.

No Parity Bonds shall be issued at any time, however, unless there has been procured and filed with the Recorder a written statement by the Independent Certified Public Accountants, based upon the necessary investigation and certification by the Consulting Engineers, reciting the conclusion that the Net Revenues actually derived, subject to the adjustments hereinafter provided for, from the System during any 12 consecutive months, within the 18 months immediately preceding the date of the actual issuance of such Parity Bonds, plus the estimated average increased annual Net Revenues to be received in each of the 3 succeeding years after the completion of the improvements to be financed by such Parity Bonds, shall not be less than 115% of the largest aggregate amount that will mature and become due in any succeeding Fiscal Year for principal of and interest on the following:

- (1) The Bonds then Outstanding;
- (2) Any Parity Bonds theretofore issued pursuant to the provisions contained in this Ordinance then Outstanding; and
- (3) The Parity Bonds then proposed to be issued.

The "estimated average increased annual Net Revenues to be received in each of the 3 succeeding years," as that term is used in the computation provided in the above paragraph, shall refer only to the increased Net Revenues estimated to be derived from (a) the improvements to be financed by such Parity Bonds and (b) any increase in rates adopted by the Issuer, the period for appeal of which has expired prior to the date of delivery of such Parity Bonds, and shall not exceed the amount to be stated in a certificate of the Consulting Engineers, which shall be filed in the office of the Recorder prior to the issuance of such Parity Bonds.

The Net Revenues actually derived from the System during the 12-consecutive-month period hereinabove referred to may be adjusted by adding to such Net Revenues such additional Net Revenues which would have been received, in the opinion of the Consulting Engineers and the said Independent Certified Public Accountants, as stated in a certificate jointly made and signed by the Consulting Engineers and said Independent Certified Public Accountants, on account of increased rates, rentals, fees and charges for the System adopted by the Issuer, the period for appeal of which has expired prior to issuance of such Parity Bonds.

Not later than simultaneously with the delivery of such Parity Bonds, the Issuer shall have entered into written contracts for the immediate construction or acquisition of such additions, betterments or improvements, if any, to the System that are to be financed by such Parity Bonds.

All covenants and other provisions of this Bond Legislation (except as to details of such Parity Bonds inconsistent herewith) shall be for the equal benefit, protection and security of the Holders of the Bonds and the Holders of any Parity Bonds subsequently issued from time to time within the limitations of and in compliance with this section. Bonds issued on a parity, regardless of the time or times of their issuance, shall rank equally with respect to their lien on the revenues of the System and their source of and security for payment from said revenues, without preference of any Bond of one series over any other Bond of the same series. The Issuer shall comply fully with all the increased payments into the various funds

and accounts created in this Bond Legislation required for and on account of such Parity Bonds, in addition to the payments required for Bonds theretofore issued pursuant to this Bond Legislation.

All Parity Bonds shall mature on the day of the years of maturities, and the semiannual interest thereon shall be payable on the days of each year, specified in a Supplemental Resolution.

Parity Bonds shall not be deemed to include bonds, notes, certificates or other obligations subsequently issued, the lien of which on the revenues of the System is subject to the prior and superior liens of the Series 1990 A Bonds and the Series 1990 B Bonds on such revenues. The Issuer shall not issue any obligations whatsoever payable from the revenues of the System, or any part thereof, which rank prior to or, except in the manner and under the conditions provided in this section, equally, as to lien on and source of and security for payment from such revenues, with the Series 1990 A Bonds or the Series 1990 B Bonds.

No Parity Bonds shall be issued any time, however, unless all the payments into the respective funds and accounts provided for in this Bond Legislation with respect to the Bonds then Outstanding, and any other payments provided for in this Bond Legislation, shall have been made in full as required to the date of delivery of such Parity Bonds, and the Issuer shall then be in full compliance with all the covenants, agreements and terms of this Bond Legislation.

B. Notwithstanding the foregoing, or any provision of Section 7.06 to the contrary, additional Bonds may be issued solely for the purpose of completing the Project as described in the application to the Authority submitted as of the date of the Loan Agreement without regard to the restrictions set forth in this Section 7.07, if there is first obtained by the Issuer the written consent of the Authority to the issuance of bonds on a parity with the Bonds.

Section 7.08. Books and Records. The Issuer will keep books and records of the System, which shall be separate and apart from all other books, records and accounts of the Issuer, in which complete and correct entries shall be made of all transactions relating to the System, and any Holder of a Bond or Bonds or of a Note or Notes issued pursuant to this Bond Legislation or the Trustee shall have the right at all reasonable times to inspect the System and all parts thereof and all records, accounts and data of the Issuer relating thereto.

The accounting system for the System shall follow current generally accepted accounting principles and safeguards to the extent allowed and as prescribed by the Public Service Commission of

West Virginia. Separate control accounting records shall be maintained by the Issuer. Subsidiary records as may be required shall be kept in the manner and on the forms, books and other bookkeeping records as prescribed by the Governing Body. The Governing Body shall prescribe and institute the manner by which subsidiary records of the accounting system which may be installed remote from the direct supervision of the Governing Body shall be reported to such agent of the Issuer as the Governing Body shall direct.

The Issuer shall file with the Consulting Engineers, the Trustee and the Authority, or any other original purchaser of the Bonds, and shall mail in each year to any Holder or Holders of Bonds or Notes, as the case may be, requesting the same, an annual report containing the following:

(A) A statement of Gross Revenues, Operating Expenses, Net Revenues and Surplus Revenues derived from and relating to the System.

(B) A balance sheet statement showing all deposits in all the funds and accounts provided for in this Bond Legislation and the Indenture with respect to said Bonds or Notes, as the case may be, and the status of all said funds and accounts.

(C) The amount of any Bonds, Notes or other obligations outstanding.

The Issuer shall also, at least once a year, cause the books, records and accounts of the System to be audited by Independent Certified Public Accountants and shall mail upon request, and make available generally, the report of said Independent Certified Public Accountants, or a summary thereof, to any Holder or Holders of Bonds or Notes, as the case may be, and shall submit said report to the Trustee and the Authority, or any other original purchaser of the Bonds. Such audit report submitted to the Authority shall include a statement that the Issuer is in compliance with the terms and provisions of the Loan Agreement and this Bond Legislation.

Section 7.09. Rates. Equitable rates or charges for the use of and service rendered by the System have been established all in the manner and form required by law, and copies of such rates and charges so established will be continuously on file with the Recorder, which copies will be open to inspection by all interested parties. The schedule of rates and charges shall at all times be adequate to produce Gross Revenues from said System sufficient to pay Operating Expenses and to make the prescribed payments into the funds created

hereunder. Such schedule of rates and charges shall be changed and readjusted whenever necessary so that the aggregate of the rates and charges will be sufficient for such purposes. In order to assure full and continuous performance of this covenant, with a margin for contingencies and temporary unanticipated reduction in income and revenues, the Issuer hereby covenants and agrees that the schedule of rates or charges from time to time in effect shall be sufficient, together with other revenues of the System (i) to provide for all reasonable expenses of operation, repair and maintenance of the System and (ii) to leave a balance each year equal to at least 115% of the maximum amount required in any year for payment of principal of and interest on the Bonds and all other obligations secured by a lien on or payable from such revenues prior to or on a parity with the Bonds, provided that, in the event that amounts equal to or in excess of the Reserve Requirements are on deposit respectively in the Reserve Accounts and reserve accounts for obligations prior to or on a parity with the Bonds are funded at least at the requirement therefor, such balance each year need only equal at least 110% of the maximum amount required in any year for payment of principal of and interest on the Bonds and all other obligations secured by a lien on or payable from such revenues prior to or on a parity with the Bonds. In any event, the Issuer shall not reduce the rates or charges for services set forth in the rate ordinance described in Section 7.04.

Section 7.10. Operating Budget and Audit. The Issuer shall annually, at least 45 days preceding the beginning of each Fiscal Year, prepare and adopt by resolution a detailed, balanced budget of the estimated expenditures for operation and maintenance of the System during the succeeding Fiscal Year. No expenditures for the operation and maintenance of the System shall be made in any Fiscal Year in excess of the amounts provided therefor in such budget without a written finding and recommendation by the Consulting Engineers, which finding and recommendation shall state in detail the purpose of and necessity for such increased expenditures for the operation and maintenance of the System, and no such increased expenditures shall be made until the Issuer shall have approved such finding and recommendation by a resolution duly adopted. No increased expenditures in excess of 10% of the amount of such budget shall be made except upon the further certificate of the Consulting Engineers that such increased expenditures are necessary for the continued operation of the System. The Issuer shall mail copies of such annual budget and all resolutions authorizing increased expenditures for operation and maintenance to the Trustee and the Authority and to any Holder of any Bonds or Notes, as the case may be, who shall file his or her address with the Issuer and request in writing that copies of all such budgets and resolutions be furnished him or her and shall make available such budgets and all resolutions authorizing increased expenditures for operation and maintenance of the System at all

reasonable times to the Trustee and to any Holder of any Bonds or Notes, as the case may be, or anyone acting for and in behalf of such Holder of any Bonds or Notes, as the case may be.

In addition, the Issuer shall annually cause the records of the System to be audited by an independent certified public accountant, the report of which audit shall be submitted to the Authority and which audit report shall include a statement that the Issuer is in compliance with the terms and provisions of this Bond Legislation and the Loan Agreement.

Section 7.11. No Competing Franchise. To the extent legally allowable, the Issuer will not grant or cause, consent to or allow the granting of, any franchise or permit to any person, firm, corporation, body, agency or instrumentality whatsoever for the providing of any services which would compete with services provided by the System.

Section 7.12. Enforcement of Collections. The Issuer will diligently enforce and collect all fees, rentals or other charges for the services and facilities of the System, and take all steps, actions and proceedings for the enforcement and collection of such fees, rentals or other charges which shall become delinquent to the full extent permitted or authorized by the Act, the rules and regulations of the Public Service Commission of West Virginia and other laws of the State of West Virginia.

Whenever any fees, rates, rentals or other charges for the services and facilities of the System shall remain unpaid for a period of 30 days after the same shall become due and payable, the property and the owner thereof, as well as the user of the services and facilities, shall be delinquent until such time as all such rates and charges are fully paid. To the extent authorized by the laws of the State and the rules and regulations of the Public Service Commission of West Virginia, rates, rentals and other charges, if not paid, when due, shall become a lien on the premises served by the System. The Issuer further covenants and agrees that, it will, to the full extent permitted by law and the rules and regulations promulgated by the Public Service Commission of West Virginia, discontinue and shut off the services of the System and any services and facilities of the water system, if so owned by the Issuer, to all users of the services of the System delinquent in payment of charges for the services of the System and will not restore such services of either system until all delinquent charges for the services of the System, plus reasonable interest and penalty charges for the restoration of service, have been fully paid and shall take all further actions to enforce collections to the maximum extent permitted by law.

Section 7.13. No Free Services. The Issuer will not render or cause to be rendered any free services of any nature by the System, nor will any preferential rates be established for users of the same class; and in the event the Issuer, or any department, agency, instrumentality, officer or employee of the Issuer shall avail itself or themselves of the facilities or services provided by the System, or any part thereof, the same rates, fees or charges applicable to other customers receiving like services under similar circumstances shall be charged the Issuer and any such department, agency, instrumentality, officer or employee. The revenues so received shall be deemed to be revenues derived from the operation of the System, and shall be deposited and accounted for in the same manner as other revenues derived from such operation of the System.

Section 7.14. Insurance and Construction Bonds. A. The Issuer hereby covenants and agrees that so long as any of the Bonds or the Notes remain Outstanding, the Issuer will, as an Operating Expense, procure, carry and maintain insurance with a reputable insurance carrier or carriers as is customarily covered with respect to works and properties similar to the System. Such insurance shall initially cover the following risks and be in the following amounts:

(1) FIRE, LIGHTNING, VANDALISM, MALICIOUS MISCHIEF AND EXTENDED COVERAGE INSURANCE, on all above-ground insurable portions of the System in an amount equal to the actual cost thereof. In time of war the Issuer will also carry and maintain insurance to the extent available against the risks and hazards of war. The proceeds of all such insurance policies shall be placed in the Renewal and Replacement Fund and used only for the repairs and restoration of the damaged or destroyed properties or for the other purposes provided herein for said Renewal and Replacement Fund. The Issuer will itself, or will require each contractor and subcontractor to, obtain and maintain builder's risk insurance (fire and extended coverage) to protect the interests of the Issuer, the Authority, the prime contractor and all subcontractors as their respective interests may appear, in accordance with the Loan Agreement, during construction of the Project on a 100% basis (completed value form) on the insurable portion of the Project, such insurance to be made payable to the order of the Authority, the Issuer, the contractors and subcontractors, as their interests may appear.

(2) PUBLIC LIABILITY INSURANCE, with limits of not less than \$1,000,000 per occurrence to protect the Issuer from claims for bodily injury and/or death and not less than \$500,000 per occurrence from claims for damage to

property of others which may arise from the operation of the System, and insurance with the same limits to protect the Issuer from claims arising out of operation or ownership of motor vehicles of or for the System.

(3) WORKER'S COMPENSATION COVERAGE FOR ALL EMPLOYEES OF OR FOR THE SYSTEM ELIGIBLE THEREFOR; AND PERFORMANCE AND PAYMENT BONDS, such bonds to be in the amounts of 100% of the construction contract and to be required of each contractor contracting directly with the Issuer, and such payment bonds will be filed with the Clerk of The County Commission of the County in which such work is to be performed prior to commencement of construction of the Project in compliance with West Virginia Code, Chapter 38, Article 2, Section 39.

(4) FLOOD INSURANCE, to the extent available at reasonable cost to the Issuer.

(5) BUSINESS INTERRUPTION INSURANCE, to the extent available at reasonable cost to the Issuer.

B. The Issuer shall also require all contractors engaged in the construction of the Project to carry such worker's compensation coverage for all employees working on the Project and public liability insurance, vehicular liability insurance and property damage insurance in amounts adequate for such purposes and as is customarily carried with respect to works and properties similar to the Project. In the event the Loan Agreement so requires, such insurance shall be made payable to the order of the Authority, the Issuer, the prime contractor and all subcontractors, as their interests may appear.

Section 7.15. Mandatory Connections. The mandatory use of the System is essential and necessary for the protection and preservation of the public health, comfort, safety, convenience and welfare of the inhabitants and residents of, and the economy of, the Issuer and in order to assure the rendering harmless of sewage and water-borne waste matter produced or arising within the territory served by the System. Accordingly, every owner, tenant or occupant of any house, dwelling or building located near the System, where sewage will flow by gravity or be transported by such other methods approved by the State Department of Health from such house, dwelling or building into the System, to the extent permitted by the laws of the State and the rules and regulations of the Public Service Commission of West Virginia, shall connect with and use the System and shall cease the use of all other means for the collection, treatment and disposal of sewage and waste matters from such house, dwelling or building where there is such gravity flow or

transportation by such other method approved by the State Department of Health and such house, dwelling or building can be adequately served by the System, and every such owner, tenant or occupant shall, after a 30 day notice of the availability of the System, pay the rates and charges established therefor.

Any such house, dwelling or building from which emanates sewage or water-borne waste matter and which is not so connected with the System is hereby declared and found to be a hazard to the health, safety, comfort and welfare of the inhabitants of the Issuer and a public nuisance which shall be abated to the extent permitted by law and as promptly as possible by proceedings in a court of competent jurisdiction.

Section 7.16. Completion of Project. The Issuer will complete the Project and operate and maintain the System in good condition.

Section 7.17. Tax Covenants. The Issuer hereby further covenants and agrees as follows:

A. PRIVATE BUSINESS USE LIMITATION. The Issuer shall assure that (i) not in excess of 10% of the Net Proceeds of the Bonds are used for Private Business Use if, in addition, the payment of more than 10% of the principal or 10% of the interest due on the Bonds during the term thereof is, under the terms of the Bonds or any underlying arrangement, directly or indirectly, secured by any interest in property used or to be used for a Private Business Use or in payments in respect of property used or to be used for a Private Business Use or is to be derived from payments, whether or not to the Issuer, in respect of property or borrowed money used or to be used for a Private Business Use; and (ii) and that, in the event that both (A) in excess of 5% of the Net Proceeds of the Bonds are used for a Private Business Use, and (B) an amount in excess of 5% of the principal or 5% of the interest due on the Bonds during the term thereof is, under the terms of the Bonds or any underlying arrangement, directly or indirectly, secured by any interest in property used or to be used for said Private Business Use or in payments in respect of property used or to be used for said Private Business Use or is to be derived from payments, whether or not to the Issuer, in respect of property or borrowed money used or to be used for said Private Business Use, then said excess over said 5% of Net Proceeds of the Bonds used for a Private Business Use shall be used for a Private Business Use related to the governmental use of the Project, or if the Bonds are for the purpose of financing more than one project, a portion of the Project, and shall not exceed the proceeds used for the governmental use of that portion of the Project to which such Private Business Use is related.

B. PRIVATE LOAN LIMITATION. The Issuer shall assure that not in excess of 5% of the Net Proceeds of the Bonds are used, directly or indirectly, to make or finance a loan (other than loans constituting Nonpurpose Investments) to persons other than state or local government units.

C. FEDERAL GUARANTEE PROHIBITION. The Issuer shall not take any action or permit or suffer any action to be taken if the result of the same would be to cause the Bonds to be "federally guaranteed" within the meaning of Section 149(b) of the Code and Regulations promulgated thereunder.

D. INFORMATION RETURN. The Issuer will file all statements, instruments and returns necessary to assure the tax-exempt status of the Bonds and the interest thereon, including without limitation, the information return required under Section 149(e) of the Code.

E. FURTHER ACTIONS. The Issuer will take any and all actions that may be required of it (including those deemed necessary by the Authority) so that the interest on the Bonds will be and remain excludable from gross income for federal income tax purposes, and will not take any actions, or fail to take any actions (including those determined by the Authority) which would adversely affect such exclusion.

## ARTICLE VIII

### INVESTMENT OF FUNDS; NON ARBITRAGE

Section 8.01. Investments. Any moneys held as a part of the funds and accounts created by this Bond Legislation or the Indenture, other than the Revenue Fund, shall be invested and reinvested by the Commission, the Trustee, if any, the Depository Bank, or such other bank or national banking association holding such fund or account, as the case may be, at the written direction of the Issuer in any Qualified Investments to the fullest extent possible under applicable laws, this Bond Legislation, and the Indenture, if any, the need for such moneys for the purposes set forth herein and in the Indenture, if any, and the specific restrictions and provisions set forth in this Section 8.01 and in the Indenture.

Except as provided in the Indenture, if any, any investment shall be held in and at all times deemed a part of the fund or account in which such moneys were originally held, and the interest accruing thereon and any profit or loss realized from such investment shall be credited or charged to the appropriate fund or account. The investments held for any fund or account shall be valued at the lower of cost or then current market value, or at the redemption price thereof if then redeemable at the option of the holder, including the value of accrued interest and giving effect to the amortization of discount, or at par if such investment is held in the "Consolidated Fund." The Commission, the Trustee, if any, the Depository Bank, or such other bank or national banking association, as the case may be, shall sell and reduce to cash a sufficient amount of such investments whenever the cash balance in any fund or account is insufficient to make the payments required from such fund or account, regardless of the loss on such liquidation. The Trustee, if any, the Depository Bank, or such other bank or national banking association, as the case may be, may make any and all investments permitted by this section through its own bond department and shall not be responsible for any losses from such investments, other than for its own negligence or willful misconduct.

The Trustee, if any, and the Depository Bank shall keep complete and accurate records of all funds, accounts and investments, and shall distribute to the Issuer, at least once each year, a summary of such funds, accounts and investment earnings. The Issuer shall retain all such records and any additional records with respect to such funds, accounts and investment earnings so long as any of the Bonds are Outstanding.

Section 8.02. Arbitrage and Tax Exemption. The Issuer covenants that (i) it will restrict the use of the proceeds of the Bonds in such manner and to such extent as may be necessary so that the Bonds will not constitute "arbitrage bonds" under Section 148 of the Code and Regulations, and (ii) it will take all actions that may be required of it (including, without implied limitation, the timely filing of a Federal information return with respect to the Bonds) so that the interest on the Bonds will be and remain excluded from gross income for Federal income tax purposes, and will not take any actions which would adversely affect such exclusion.

Section 8.03. Small Issuer Exemption from Rebate of Excess Investment Earnings to the United States. In accordance with Section 148(f)(4)(C) of the Code, the Issuer covenants that it is a governmental unit with general taxing powers; that no part of the Bonds are private activity bonds; that 95% or more of the Net Proceeds of the Bonds are to be used for local governmental activities of the Issuer (or of a governmental unit the jurisdiction of which is entirely within the jurisdiction of the Issuer); and that the aggregate face amount of all the tax-exempt obligations (other than private activity bonds) issued by the Issuer during the calendar year in which the Bonds are issued does not and will not exceed \$5,000,000, determined in accordance with Section 148(f)(4)(C) of the Code and the Regulations promulgated thereunder. For purposes of this Section 8.03 and for purposes of applying Section 148(f)(4)(C) of the Code, the Issuer and all entities which issue obligations on behalf of the Issuer shall be treated as one issuer; all obligations issued by a subordinate entity shall, for purposes of applying this Section 8.03 and Section 148(f)(4)(C) of the Code to each other entity to which such entity is subordinate, be treated as issued by such other entity; and an entity formed (or, to the extent provided by the Secretary, as set forth in the Code, availed of) to avoid the purposes of such Section 148(f)(4)(C) of the Code and all other entities benefiting thereby shall be treated as one issuer.

Notwithstanding the foregoing, if in fact the Issuer is subject to the rebate requirements of Section 148(f) of the Code, and not exempted from such requirements, the Issuer covenants to make, or cause to be made, all rebate calculations, computations and payments in the time, manner and as required in Section 148(f) of the Code and the Regulations and otherwise covenants and agrees to comply with the provisions of such Section 148(f) of the Code and the Regulations. In the event of a failure to pay any such amount or amounts, the Issuer will pay, from any lawful sources available therefor, to the United States an amount equal to the sum of 50% of the amount not paid, plus interest at the required rate on the portion of the amount which was not paid on the required date, beginning on such date, unless waived. In order to provide for the administration of this

paragraph, the Issuer may provide for the employment of independent attorneys, accountants and consultants compensated on such reasonable basis as the Issuer may deem appropriate.

The Issuer shall furnish to the Authority, annually, at such time as it is required to perform its rebate calculations under the Code, a certificate with respect to its rebate calculations and, at any time, any additional information relating thereto as may be requested by the Authority. In addition, the Issuer shall cooperate with the Authority in preparing any required rebate calculations and in all other respects in connection with rebates and hereby consents to the performance of all matters in connection with such rebates by the Authority at the expense of the Issuer.

The Issuer shall submit to the Authority within 15 days following the end of each Bond Year a certified copy of its rebate calculation or, if the Issuer qualifies for the small governmental issue exception to rebate, then the Issuer shall submit a certificate stating that it is exempt from the rebate provisions and that no event has occurred to its knowledge during the Bond Year which would make the Bonds subject to rebate.

ARTICLE IX

DEFAULT AND REMEDIES

Section 9.01. Events of Default. A. Each of the following events shall constitute an "Event of Default" with respect to the Notes:

(1) If default occurs in the due and punctual payment of the principal of or interest on any Notes; or

(2) If default occurs in the Issuer's observance of any of the covenants, agreements or conditions on its part relating to the Notes set forth in this Bond Legislation, any supplemental resolution, the Indenture or in the Notes, and such default shall have continued for a period of 30 days after the Issuer shall have been given written notice of such default by the Trustee, any other bank or banking association holding any fund or account hereunder or a Holder of a Note; or

(3) If the Issuer files a petition seeking reorganization or arrangement under the federal bankruptcy laws or any other applicable law of the United States of America.

B. Each of the following events shall constitute an "Event of Default" with respect to the Bonds:

(1) If default occurs in the due and punctual payment of the principal of or interest on any Bonds; or

(2) If default occurs in the Issuer's observance of any of the covenants, agreements or conditions on its part relating to the Bonds set forth in this Bond Legislation, any supplemental resolution or in the Bonds, and such default shall have continued for a period of 30 days after the Issuer shall have been given written notice of such default by the Commission, the Depository Bank, Registrar or any other Paying Agent or a Holder of a Bond; or

(3) If the Issuer files a petition seeking reorganization or arrangement under the federal bankruptcy laws or any other applicable law of the United States of America.

Section 9.02. Remedies. Upon the happening and continuance of any Event of Default, any Registered Owner of a Note or Bond, as the case may be, may exercise any available remedy and bring any appropriate action, suit or proceeding to enforce his or her rights and, in particular, (i) bring suit for any unpaid principal or interest then due, (ii) by mandamus or other appropriate proceeding enforce all rights of such Registered Owners including the right to require the Issuer to perform its duties under the Act and the Bond Legislation relating thereto, including but not limited to the making and collection of sufficient rates or charges for services rendered by the System, (iii) bring suit upon the Notes or Bonds, as the case may be, (iv) by action at law or bill in equity require the Issuer to account as if it were the trustee of an express trust for the Registered Owners of the Notes or Bonds, as the case may be, and (v) by action or bill in equity enjoin any acts in violation of the Bond Legislation with respect to the Notes or Bonds, or the rights of such Registered Owners, provided however, that no remedy herein stated may be exercised by a Noteholder in a manner which adversely affects any remedy available to the Bondholders, and provided further, that all rights and remedies of the Holders of the Series 1990 B Bonds shall be subject to those of the Holders of the Series 1990 A Bonds.

Section 9.03. Appointment of Receiver. Any Registered Owner of a Bond or Note may, by proper legal action, compel the performance of the duties of the Issuer under the Bond Legislation and the Act, including, after commencement of operation of the System, the making and collection of sufficient rates and charges for services rendered by the System and segregation of the revenues therefrom and the application thereof. If there be any Event of Default with respect to such Bonds or Notes any Registered Owner of a Bond shall, in addition to all other remedies or rights, have the right by appropriate legal proceedings to obtain the appointment of a receiver to administer the System or to complete the acquisition and construction of the Project on behalf of the Issuer with power to charge rates, rentals, fees and other charges sufficient to provide for the payment of Operating Expenses of the System, the payment of the Bonds and interest and the deposits into the funds and accounts hereby established, and to apply such rates, rentals, fees, charges or other revenues in conformity with the provisions of this Bond Legislation and the Act.

The receiver so appointed shall forthwith, directly or by his or her or its agents and attorneys, enter into and upon and take possession of all facilities of said System and shall hold, operate and maintain, manage and control such facilities, and each and every part thereof, and in the name of the Issuer exercise all the rights

and powers of the Issuer with respect to said facilities as the Issuer itself might do.

Whenever all that is due upon the Bonds and interest thereon and under any covenants of this Bond Legislation for Reserve, Sinking or other funds and upon any other obligations and interest thereon having a charge, lien or encumbrance upon the revenues of the System shall have been paid and made good, and all defaults under the provisions of this Bond Legislation shall have been cured and made good, possession of the System shall be surrendered to the Issuer upon the entry of an order of the court to that effect. Upon any subsequent default, any Registered Owner of any Bonds shall have the same right to secure the further appointment of a receiver upon any such subsequent default.

Such receiver, in the performance of the powers hereinabove conferred upon him or her or it, shall be under the direction and supervision of the court making such appointment, shall at all times be subject to the orders and decrees of such court and may be removed thereby, and a successor receiver may be appointed in the discretion of such court. Nothing herein contained shall limit or restrict the jurisdiction of such court to enter such other and further orders and decrees as such court may deem necessary or appropriate for the exercise by the receiver of any function not specifically set forth herein.

Any receiver appointed as provided herein shall hold and operate the System in the name of the Issuer and for the joint protection and benefit of the Issuer and Registered Owners of the Bonds. Such receiver shall have no power to sell, assign, mortgage or otherwise dispose of any assets of any kind or character belonging or pertaining to the System, but the authority of such receiver shall be limited to the possession, operation and maintenance of the System for the sole purpose of the protection of both the Issuer and Registered Owners of such Bonds and the curing and making good of any Event of Default with respect thereto under the provisions of this Bond Legislation, and the title to and ownership of said System shall remain in the Issuer, and no court shall have any jurisdiction to enter any order or decree permitting or requiring such receiver to sell, assign, mortgage or otherwise dispose of any assets of the System.

## ARTICLE X

### DEFEASANCE

Section 10.01. Defeasance of Series 1990 A Bonds. If the Issuer shall pay or cause to be paid, or there shall otherwise be paid, to the respective Holders of all Series 1990 A Bonds, the principal of and interest due or to become due thereon, at the times and in the manner stipulated therein and in this Bond Legislation, then with respect to the Series 1990 A Bonds only, the pledge of Net Revenues and other moneys and securities pledged under this Bond Legislation and all covenants, agreements and other obligations of the Issuer to the Registered Owners of the Series 1990 A Bonds shall thereupon cease, terminate and become void and be discharged and satisfied, except as may otherwise be necessary to assure the exclusion of interest on the Series 1990 A Bonds from gross income for federal income tax purposes.

Series 1990 A Bonds for the payment of which either moneys in an amount which shall be sufficient, or securities the principal of and the interest on which, when due, will provide moneys which, together with the moneys, if any, deposited with the Paying Agents at the same or earlier time, shall be sufficient, to pay as and when due either at maturity or at the next redemption date, the principal installments of and interest on such Series 1990 A Bonds shall be deemed to have been paid within the meaning and with the effect expressed in the first paragraph of this section. All Series 1990 A Bonds shall, prior to the maturity thereof, be deemed to have been paid within the meaning and with the effect expressed in the first paragraph of this section if there shall have been deposited with the Commission or its agent, either moneys in an amount which shall be sufficient, or securities the principal of and the interest on which, when due, will provide moneys which, together with other moneys, if any, deposited with the Commission at the same time, shall be sufficient to pay when due the principal installments of and interest due and to become due on said Series 1990 A Bonds on and prior to the next redemption date or the maturity dates thereof. Neither securities nor moneys deposited with the Commission pursuant to this section nor principal or interest payments on any such securities shall be withdrawn or used for any purpose other than, and shall be held in trust for, the payment of the principal installments of and interest on said Series 1990 A Bonds; provided, that any cash received from such principal or interest payments on such securities deposited with the Commission or its agent, if not then needed for such purpose, shall, to the extent practicable, be reinvested in securities maturing at times and in amounts sufficient to pay when due the principal installments of and interest to become due on said Bonds on and prior

to the next redemption date or the maturity dates thereof, and interest earned from such reinvestments shall be paid over to the Issuer as received by the Commission or its agent, free and clear of any trust, lien or pledge. For the purpose of this section, securities shall mean and include only Government Obligations.

Section 10.02. Defeasance of Series 1990 B Bonds. If the Issuer shall pay or cause to be paid, or there shall otherwise be paid, to the respective Holders of all Series 1990 B Bonds, the principal due or to become due thereon, at the times and in the manner stipulated therein and in this Bond Legislation, then with respect to the Series 1990 B Bonds only, the pledge of Net Revenues and other moneys and securities pledged under this Bond Legislation and all covenants, agreements and other obligations of the Issuer to the Registered Owners of the Series 1990 B Bonds shall thereupon cease, terminate and become void and be discharged and satisfied.

Series 1990 B Bonds for the payment of which either moneys in an amount which shall be sufficient, or securities the principal of and the interest on which, when due, will provide moneys which, together with the moneys, if any, deposited with the Paying Agents at the same or earlier time, shall be sufficient, to pay as and when due either at maturity or at the next redemption date the principal installments of such Series 1990 B Bonds shall be deemed to have been paid within the meaning and with the effect expressed in the first paragraph of this section. All Series 1990 B Bonds shall, prior to the maturity thereof, be deemed to have been paid within the meaning and with the effect expressed in the first paragraph of this section if there shall have been deposited with the Commission or its agent, either moneys in an amount which shall be sufficient, or securities the principal of and the interest on which, when due, will provide moneys which, together with other moneys, if any, deposited with the Commission at the same time, shall be sufficient to pay when due the principal installments of said Series 1990 B Bonds on and prior to the next redemption date or the maturity dates thereof. Neither securities nor moneys deposited with the Commission pursuant to this section nor principal or interest payments on any such securities shall be withdrawn or used for any purpose other than, and shall be held in trust for, the payment of the principal installments of said Series 1990 B Bonds; provided, that any cash received from such principal or interest payments on such securities deposited with the Commission or its agent, if not then needed for such purpose, shall, to the extent practicable, be reinvested in securities maturing at times and in amounts sufficient to pay when due the principal installments of said Bonds on and prior to the next redemption date or the maturity dates thereof, and interest earned from such reinvestments shall be paid over to the Issuer as received by the Commission or its agent, free and clear of any trust, lien or pledge.

For the purpose of this section, securities shall mean and include only Government Obligations.

Section 10.03. Defeasance of Notes. If the Issuer shall pay or cause to be paid, or there shall otherwise be paid, to the respective Holders of any series of Notes, the principal of and interest due or to become due thereon, at the times and in the manner set forth in the Indenture, then with respect to such Notes only, this Bond Legislation, the Indenture, if any, and the pledges of Grant Receipts and other moneys and securities pledged thereby, and all covenants, agreements and other obligations of the Issuer to the Holders of the Notes shall thereupon cease, terminate and become void and be discharged and satisfied.

## ARTICLE XI

### MISCELLANEOUS

Section 11.01. Amendment or Modification of Bond Legislation. No material modification or amendment of this Bond Legislation, or of any resolution amendatory or supplemental hereto, that would materially and adversely affect the respective rights of Registered Owners of the Notes or Bonds shall be made without the consent in writing of the Registered Owners of 66-2/3% or more in principal amount of the Notes, the Series 1990 A Bonds or the Series 1990 B Bonds so affected and then Outstanding; provided, that no change shall be made in the maturity of any Bond or Bonds or any Note or Notes or the rate of interest thereon, or in the principal amount thereof, or affecting the unconditional promise of the Issuer to pay such principal and interest out of the funds herein respectively pledged therefor without the consent of the respective Registered Owner thereof. No amendment or modification shall be made that would reduce the percentage of the principal amount of Bonds or Notes respectively, required for consent to the above-permitted amendments or modifications. Notwithstanding the foregoing, this Bond Legislation may be amended without the consent of any Bondholder or Noteholder as may be necessary to assure compliance with Section 148(f) of the Code relating to rebate requirements or otherwise as may be necessary to assure the excludability of interest on the Bonds and the Notes from gross income of the holders thereof.

Section 11.02. Bond Legislation Constitutes Contract. The provisions of the Bond Legislation shall constitute a contract between the Issuer and the Registered Owners of the Bonds and Notes, and no change, variation or alteration of any kind of the provisions of the Bond Legislation shall be made in any manner, except as in this Bond Legislation provided.

Section 11.03. Severability of Invalid Provisions. If any section, paragraph, clause or provision of this Ordinance should be held invalid by any court of competent jurisdiction, the invalidity of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Ordinance, the Supplemental Resolution, the Indenture, if any, the Bonds or the Notes, if any.

Section 11.04. Headings, Etc. The headings and catchlines of the articles, sections and subsections hereof are for convenience of reference only, and shall not affect in any way the meaning or interpretation of any provision hereof.

Section 11.05. Conflicting Provisions Repealed. All ordinances, orders or resolutions, and/or any part thereof, in conflict with the provisions of this Ordinance, are, to the extent of such conflict, hereby repealed.

Section 11.06. Covenant of Due Procedure, Etc. The Issuer covenants that all acts, conditions, things and procedures required to exist, to happen, to be performed or to be taken precedent to and in the enactment of this Ordinance do exist, have happened, have been performed and have been taken in regular and due time, form and manner as required by and in full compliance with the laws and Constitution of the State of West Virginia applicable thereto; and that the Mayor, Recorder and members of the Governing Body were at all times when any actions in connection with this Ordinance occurred and are duly in office and duly qualified for such office.

Section 11.07. Effective Date. This Ordinance shall take effect immediately following public hearing hereon.

Section 11.08. Statutory Notice and Public Hearing. Upon adoption hereof, an abstract of this Bond Legislation determined by the Governing Body to contain sufficient information as to give notice of the contents hereof shall be published once a week for 2 successive weeks within a period of fourteen consecutive days, with at least 6 full days intervening between each publication, in The Shinnston News a qualified newspaper published and of general circulation in the City of Shinnston, together with a notice stating that this Bond Legislation has been adopted and that the Issuer contemplates the issuance of the Bonds and Notes, and that any person interested may appear before the City Council upon a date certain, not less than ten days subsequent to the date of the first publication of such abstract of this Bond Legislation and notice, and present protests, and that a certified copy of the Ordinance is on file with the Governing Body for review by interested persons during office hours of the Governing

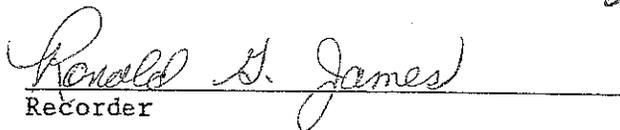
Body. At such hearing, all objections and suggestions shall be heard and the Governing Body shall take such action as it shall deem proper in the premises.

Passed on First Reading - March 5, 1990

Passed on Second Reading - March 12, 1990

Passed on Final Reading  
Following Public  
Hearing - March 26, 1990

  
\_\_\_\_\_  
Mayor

  
\_\_\_\_\_  
Recorder

CERTIFICATION

Certified a true copy of an Ordinance duly enacted by the Council of the CITY OF SHINNSTON on the 26th day of March, 1990.

Dated: March 29, 1990

[SEAL]

*Ronald S. James*  
Recorder

03/27/90  
SHINJ.A3  
81850/87001

CITY OF SHINNSTON

Sewer Revenue Bonds,  
Series 1990 A and Series 1990 B

SUPPLEMENTAL RESOLUTION

SUPPLEMENTAL RESOLUTION PROVIDING AS TO PRINCIPAL AMOUNTS, DATES, MATURITIES, INTEREST RATES, PRINCIPAL PAYMENT SCHEDULES, SALE PRICES AND OTHER TERMS OF THE SEWER REVENUE BONDS, SERIES 1990 A AND SERIES 1990 B OF THE CITY OF SHINNSTON; AUTHORIZING AND APPROVING A LOAN AGREEMENT AND SUPPLEMENTAL LOAN AGREEMENT RELATING TO SUCH BONDS AND THE SALE AND DELIVERY OF SUCH BONDS TO WEST VIRGINIA WATER DEVELOPMENT AUTHORITY; DESIGNATING A REGISTRAR, PAYING AGENT AND DEPOSITORY BANK; AND MAKING OTHER PROVISIONS AS TO THE BONDS

WHEREAS, the city council (the "Governing Body") of the City of Shinnston (the "Issuer"), has duly and officially enacted a bond ordinance, effective March 26, 1990 (the "Bond Ordinance"), entitled:

ORDINANCE AUTHORIZING THE ACQUISITION AND CONSTRUCTION OF ADDITIONS, BETTERMENTS AND IMPROVEMENTS FOR THE EXISTING PUBLIC SEWERAGE FACILITIES OF THE CITY OF SHINNSTON AND THE FINANCING OF THE COST, NOT OTHERWISE PROVIDED, THEREOF THROUGH THE ISSUANCE BY THE CITY OF NOT MORE THAN \$3,000,000 IN AGGREGATE PRINCIPAL AMOUNT OF SEWER REVENUE BONDS, SERIES 1990 A, NOT MORE THAN \$1,000,000 IN AGGREGATE PRINCIPAL AMOUNT OF SEWER REVENUE BONDS, SERIES 1990 B, AND NOT MORE THAN \$3,000,000 INTERIM CONSTRUCTION FINANCING, CONSISTING OF BOND ANTICIPATION NOTES, GRANT ANTICIPATION NOTES OR A LINE OF CREDIT EVIDENCED BY NOTES, OR ANY COMBINATION OF THE FOREGOING; PROVIDING FOR THE RIGHTS AND REMEDIES OF AND SECURITY FOR THE REGISTERED OWNERS OF SUCH BONDS AND NOTES; AUTHORIZING EXECUTION AND DELIVERY OF A TRUST INDENTURE SECURING THE NOTES; APPROVING AND RATIFYING A LOAN AGREEMENT AND SUPPLEMENTAL LOAN AGREEMENT RELATING TO SUCH BONDS; AUTHORIZING THE SALE AND PROVIDING FOR THE TERMS AND

PROVISIONS OF SUCH BONDS AND NOTES AND ADOPTING  
OTHER PROVISIONS RELATING THERETO.

WHEREAS, the Bond Ordinance provides for the issuance of Sewer Revenue Bonds of the Issuer (the "Bonds"), in an aggregate principal amount not to exceed \$4,000,000, to be issued in two series, the Series 1990 A Bonds to be in an aggregate principal amount of not more than \$3,000,000 (the "Series 1990 A Bonds") and the Series 1990 B Bonds to be in an aggregate principal amount of not more than \$1,000,000 (the "Series 1990 B Bonds"), and has preliminarily authorized the execution and delivery of a loan agreement relating to the Series 1990 A Bonds to be dated March 29, 1990, and a supplemental loan agreement relating to the Series 1990 B Bonds, also to be dated March 29, 1990 (sometimes collectively referred to herein as the "Loan Agreement"), by and between the Issuer and West Virginia Water Development Authority (the "Authority"), all in accordance with Chapter 16, Article 13 of the West Virginia Code of 1931, as amended (the "Act"); and in the Bond Ordinance it is provided that the form of the Loan Agreement and the exact principal amounts, maturity dates, interest rates, interest and principal payment dates, sale prices and other terms of the Bonds should be established by a supplemental resolution pertaining to the Bonds; and that other matters relating to the Bonds be herein provided for;

WHEREAS, the Loan Agreement has been presented to the Issuer at this meeting;

WHEREAS, the Bonds are proposed to be purchased by the Authority pursuant to the Loan Agreement; and

WHEREAS, the Governing Body deems it essential and desirable that this supplemental resolution (the "Supplemental Resolution") be adopted and that the Loan Agreement be approved and entered into by the Issuer, that the exact principal amounts, the prices, the maturity dates, the redemption provisions, the interest rates and the interest and principal payment dates of the Bonds be fixed hereby in the manner stated herein, and that other matters relating to the Bonds be herein provided for;

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF SHINNSTON:

Section 1. Pursuant to the Bond Ordinance and the Act, this Supplemental Resolution is adopted and there are hereby authorized and ordered to be issued:

(A) The Sewer Revenue Bonds, Series 1990 A, of the Issuer, originally represented by a single Bond, numbered AR-1, in the principal amount of \$2,245,223. The Series 1990 A Bonds shall be dated the date of delivery thereof, shall finally mature October 1, 2029, shall bear interest at the rate of 7.85% per annum, payable semiannually on April 1 and October 1 of each year, first interest payable October 1, 1990, shall be subject to redemption upon the written consent of the Authority, and upon payment of the interest and redemption premium, if any, and otherwise in compliance with the Loan Agreement, as long as the Authority shall be the registered owner of the Series 1990 A Bonds, and shall be payable in installments of principal on October 1 of each of the years and in the amounts as set forth in "Schedule X," attached thereto and to the Loan Agreement and incorporated therein by reference.

(B) The Sewer Revenue Bonds, Series 1990 B, of the Issuer, originally represented by a single Bond, numbered BR-1, in the principal amount of \$104,777. The Series 1990 B Bonds shall be dated the date of delivery thereof, shall finally mature October 1, 2029, shall be interest free, shall be subject to redemption upon the written consent of the Authority, and otherwise in compliance with the Loan Agreement, as long as the Authority shall be the registered owner of the Series 1990 B Bonds, and shall be payable in installments of principal on October 1 of each of the years and in the amounts as set forth in "Schedule X," attached thereto and to the Supplemental Loan Agreement and incorporated therein by reference.

Section 2. All other provisions relating to the Bonds and the text of the Bonds shall be in substantially the forms provided in the Bond Ordinance.

Section 3. The Issuer does hereby authorize, approve and accept the Loan Agreement, copies of which are incorporated herein by reference, and the execution and delivery by the Mayor of the Loan Agreement, and the performance of the obligations contained therein, on behalf of the Issuer are hereby authorized, directed and approved. The price of the Bonds shall be 100% of par value, there being no interest accrued thereon.

Section 4. The Issuer does hereby appoint and designate One Valley Bank, National Association, Charleston, West Virginia, as Registrar for the Bonds and does approve and accept the Registrar's Agreement to be dated the date of delivery of the Bonds, by and between the Issuer and One Valley Bank, National Association, in substantially the form attached hereto, and the execution and delivery by the Mayor of the Registrar's Agreement, and the performance of the obligations contained therein, on behalf of the Issuer are hereby authorized, approved and directed.

Section 5. The Issuer does hereby appoint and direct the West Virginia Municipal Bond Commission, Charleston, West Virginia, to serve as Paying Agent for the Bonds.

Section 6. The Issuer does hereby appoint FirstBank Shinnston, Shinnston, West Virginia, as Depository Bank under the Bond Ordinance.

Section 7. Series 1990 A Bonds proceeds in the amount of \$50,000 shall be deposited in the Series 1990 A Bonds Sinking Fund as capitalized interest on the Series 1990 A Bonds.

Section 8. Series 1990 A Bonds proceeds in the amount of -\$0- shall be deposited in the Series 1990 A Bonds Reserve Account and Series 1990 B Bonds proceeds in the amount of -\$0- shall be deposited in the Series 1990 B Bonds Reserve Account.

Section 9. The balance of proceeds of the Bonds shall be deposited in the Bond Construction Trust Fund for payment of Costs of the Project, including costs of issuance of the Bonds and repayment of any borrowings previously incurred for the Project.

Section 10. The Issuer hereby determines to pay, on the date of delivery of the Bonds and receipt of proceeds thereof, all borrowings of the Issuer heretofore incurred for the purpose of temporarily financing a portion of the Costs of the Project, including, but not limited to, all borrowings, if any, from West Virginia Water Development Authority.

Section 11. The Mayor and Recorder are hereby authorized and directed to execute and deliver such other documents and certificates required or desirable in connection with the Bonds hereby and by the Bond Ordinance approved and provided for, to the end that the Bonds may be delivered on or about March 29, 1990, to the Authority pursuant to the Loan Agreement.

Section 12. The financing of the Project in part with proceeds of the Bonds is in the public interest, serves a public purpose of the Issuer and will promote the health, welfare and safety of the residents of the Issuer.

Section 13. The Issuer hereby determines that it is in the best interest of the Issuer to invest all moneys in the funds and accounts established by the Bond Ordinance held by the Depository Bank in time accounts secured by a pledge of Government Obligations with the Depository Bank, and therefore the Issuer hereby directs the Depository Bank to take such actions as may be necessary to cause such moneys to be invested in such time accounts, until further directed by the Issuer. Moneys in the Sinking funds for the Bonds shall be invested by the Municipal Bond Commission in the West Virginia [new name of Restricted Consolidated Fund].

Section 14. The Issuer shall not permit at any time or times any of the proceeds of the Bonds or any other funds of the Issuer to be used directly or indirectly in a manner which would result in the exclusion of the Bonds from the treatment afforded by Section 103(a) of the Internal Revenue Code of 1986, as amended, and any regulations promulgated thereunder (the "Code"), by reason of the classification of the Bonds as "private activity bonds" within the meaning of the Code. They will take all actions necessary to comply with the Code and Treasury Regulations to be promulgated thereunder.

Section 15. The Issuer has general taxing powers to finance operations of or facilities of the nature of the System, and the Issuer and all subordinate entities reasonably expect to issue less than \$5,000,000 aggregate principal amount of tax-exempt obligations during the calendar year 1990, being the calendar year in which the Bonds are to be issued.

Section 16. This Supplemental Resolution shall be effective immediately following adoption hereof.

Adopted this 26th day of March, 1990.

CITY OF SHINNSTON

  
Mayor

03/26/90  
SHINJ.E2  
81850/87001

(SPECIMEN BOND)

UNITED STATES OF AMERICA  
STATE OF WEST VIRGINIA  
CITY OF SHINNSTON  
SEWER REVENUE BOND, SERIES 1990 A

No. AR-1

\$2,245,223

KNOW ALL MEN BY THESE PRESENTS: That the CITY OF SHINNSTON, a municipal corporation and political subdivision of the State of West Virginia in Harrison County of said State (the "Issuer"), for value received, hereby promises to pay, solely from the special funds provided therefor, as hereinafter set forth, to the West Virginia Water Development Authority (the "Authority") or registered assigns the sum of TWO MILLION TWO HUNDRED FORTY-FIVE THOUSAND TWO HUNDRED TWENTY-THREE DOLLARS (\$2,245,223) in installments on October 1 of each year as set forth on the "Schedule of Annual Debt Service" attached as Exhibit A hereto and incorporated herein by reference with interest on each installment at the rate per annum set forth on said Exhibit A.

The interest rate on each installment shall run from the original date of delivery of this Bond to the Authority and payment therefor, and until payment of such installment, and such interest shall be payable on April 1 and October 1 in each year, beginning October 1, 1990. Principal installments of this Bond are payable in any coin or currency which, on the respective dates of payment of such installments, is legal tender for the payment of public and private debts under the laws of the United States of America, at the office of the West Virginia Municipal Bond Commission, Charleston, West Virginia (the "Paying Agent"). The interest on this Bond is payable by check or draft of the Paying Agent mailed to the registered owner hereof at the address as it appears on the books of One Valley Bank, National Association, Charleston, West Virginia, as registrar (the "Registrar") on the 15th day of the month next preceding an interest payment date, or by such other method as shall be mutually agreeable so long as the Authority is the Registered Owner hereof.

This Bond may be redeemed prior to its stated date of maturity in whole or in part, but only with the express written consent of the Authority, and upon the terms and conditions prescribed by, and otherwise in compliance with, the Loan Agreement between the Issuer and the Authority, dated March 29, 1990.

This Bond is issued (i) to pay a portion of the costs of acquisition and construction of certain additions, betterments and improvements for the existing sewerage facilities of the Issuer (the

"Project"); (ii) to pay interest on the Bonds of this Series (the "Bonds") for a period of approximately three months; and (iii) to pay certain costs of issuance hereof and related costs. The existing sewerage system of the Issuer, the Project, and any further additions, betterments or improvements thereto is herein called the "System." This Bond is issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 16, Article 13 of the West Virginia Code of 1931, as amended (the "Act"), and an Ordinance duly enacted by the Issuer on March 26, 1990, and a Supplemental Resolution duly adopted by the Issuer on March 26, 1990 (collectively called the "Bond Legislation"), and is subject to all the terms and conditions thereof. The Bond Legislation provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for the Bonds under the Bond Legislation.

This Bond is issued concurrently with the Sewer Revenue Bonds, Series 1990 B, of the Issuer (the "Series 1990 B Bonds"), issued in the aggregate principal amount of \$104,777, which Series 1990 B Bonds are junior and subordinate with respect to lien, pledge and sources of and security for payment to the Bonds.

This Bond is payable only from and secured by a pledge of the Net Revenues (as defined in the Bond Legislation) to be derived from the operation of the System, moneys in the Reserve Account created under the Bond Legislation for the Bonds (the "Series 1990 A Bonds Reserve Account"), and unexpended proceeds of the Bonds and the Series 1990 B Bonds. Such Net Revenues shall be sufficient to pay the principal of and interest on all bonds which may be issued pursuant to the Act and which shall be set aside as a special fund hereby pledged for such purpose. This Bond does not constitute a corporate indebtedness of the Issuer within the meaning of any constitutional or statutory provisions or limitations, nor shall the Issuer be obligated to pay the same or the interest hereon except from said special fund provided from the Net Revenues, the moneys in the Series 1990 A Bonds Reserve Account and unexpended proceeds of the Bonds and the Series 1990 B Bonds. Pursuant to the Bond Legislation, the Issuer has covenanted and agreed to establish and maintain just and equitable rates and charges for the use of the System and the services rendered thereby, which shall be sufficient, together with other revenues of the System, to provide for the reasonable expenses of operation, repair and maintenance of the System, and to leave a balance each year equal to at least 115% of the maximum amount payable in any year for principal of and interest on the Bonds, the Series 1990 B Bonds, and all other obligations secured by a lien on or payable from such revenues prior to or on a parity with the Bonds or the Series 1990 B Bonds, provided however, that so long as there

exists in the Series 1990 A Bonds Reserve Account an amount at least equal to the maximum amount of principal and interest which will become due on the Bonds in the then current or any succeeding year, and in the respective reserve accounts established for the Series 1990 B Bonds and any other obligations outstanding prior to or on a parity with the Bonds or the Series 1990 B Bonds, an amount at least equal to the requirement therefor, such percentage may be reduced to 110%. The Issuer has entered into certain further covenants with the registered owners of the Bonds for the terms of which reference is made to the Bond Legislation. Remedies provided the registered owners of the Bonds are exclusively as provided in the Bond Legislation, to which reference is here made for a detailed description thereof.

Subject to the registration requirements set forth herein, this Bond is transferable, as provided in the Bond Legislation, only upon the books of the Registrar by the registered owner, or by its attorney duly authorized in writing, upon the surrender of this Bond together with a written instrument of transfer satisfactory to the Bond Registrar duly executed by the registered owner or its attorney duly authorized in writing.

Subject to the registration requirements set forth herein, this Bond, under the provision of the Act is, and has all the qualities and incidents of, a negotiable instrument under the Uniform Commercial Code of the State of West Virginia.

All money received from the sale of this Bond, after reimbursement and repayment of all amounts advanced for preliminary expenses as provided by law, shall be applied solely to the payment of the Costs of the Project described in the Bond Legislation, and there shall be and hereby is created and granted a lien upon such moneys, until so applied, in favor of the owner of this Bond.

IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all acts, conditions and things required to exist, happen and be performed precedent to and in the issuance of this Bond have existed, have happened, and have been performed in due time, form and manner as required by law, and that the amount of this Bond, together with all other obligations of the Issuer, does not exceed any limit prescribed by the Constitution or statutes of the State of West Virginia and that a sufficient amount of the revenues of the System has been pledged to and will be set aside into said special fund by the Issuer for the prompt payment of the principal of and interest on this Bond.

All provisions of the Bond Legislation, resolutions and statutes under which this Bond is issued shall be deemed to be a part

of the contract evidenced by this Bond to the same extent as if written fully herein.

IN WITNESS WHEREOF, the CITY OF SHINNSTON has caused this Bond to be signed by its Mayor and its corporate seal to be hereunto affixed and attested by its Recorder, and has caused this Bond to be dated March 29, 1990.

[SEAL]

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
Recorder

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Series 1990 A Bonds described in the within-mentioned Bond Legislation and has been duly registered in the name of the registered owner set forth above, as of the date set forth below.

Date: \_\_\_\_\_

ONE VALLEY BANK, NATIONAL ASSOCIATION,  
as Registrar

By \_\_\_\_\_  
Its Authorized Officer

## EXHIBIT A

## Schedule of Annual Debt Service

City of Shinnston  
 Debt Service Schedule  
 Analysis of Borrowing from Series 1989 B Pool  
 39 Principal Payments  
 Closing Date: 29-Mar-90

Date	Coupon	Principal	Interest	Debt Service 7.85% Bonds
01-Oct-90			89,104.17	89,104.17
01-Oct-91	7.85%	9,761.00	176,250.01	186,011.01
01-Oct-92	7.85%	10,529.00	175,483.77	186,012.77
01-Oct-93	7.85%	11,355.00	174,657.24	186,012.24
01-Oct-94	7.85%	12,247.00	173,765.87	186,012.87
01-Oct-95	7.85%	13,208.00	172,804.48	186,012.48
01-Oct-96	7.85%	14,245.00	171,767.66	186,012.66
01-Oct-97	7.85%	15,363.00	170,649.42	186,012.42
01-Oct-98	7.85%	16,569.00	169,443.43	186,012.43
01-Oct-99	7.85%	17,870.00	168,142.76	186,012.76
01-Oct-2000	7.85%	19,272.00	166,739.97	186,011.97
01-Oct-2001	7.85%	20,785.00	165,227.11	186,012.11
01-Oct-2002	7.85%	22,417.00	163,595.49	186,012.49
01-Oct-2003	7.85%	24,177.00	161,835.76	186,012.76
01-Oct-2004	7.85%	26,075.00	159,937.86	186,012.86
01-Oct-2005	7.85%	28,121.00	157,890.97	186,011.97
01-Oct-2006	7.85%	30,329.00	155,683.48	186,012.48
01-Oct-2007	7.85%	32,710.00	153,302.65	186,012.65
01-Oct-2008	7.85%	35,278.00	150,734.91	186,012.91
01-Oct-2009	7.85%	38,047.00	147,965.59	186,012.59
01-Oct-2010	7.85%	41,034.00	144,978.90	186,012.90
01-Oct-2011	7.85%	44,255.00	141,757.73	186,012.73
01-Oct-2012	7.85%	47,729.00	138,283.72	186,012.72
01-Oct-2013	7.85%	51,475.00	134,536.99	186,011.99
01-Oct-2014	7.85%	55,516.00	130,496.20	186,012.20
01-Oct-2015	7.85%	59,874.00	126,138.20	186,012.20
01-Oct-2016	7.85%	64,574.00	121,438.09	186,012.09
01-Oct-2017	7.85%	69,643.00	116,369.03	186,012.03
01-Oct-2018	7.85%	75,110.00	110,902.05	186,012.05
01-Oct-2019	7.85%	81,007.00	105,005.92	186,012.92
01-Oct-2020	7.85%	87,366.00	98,646.87	186,012.87
01-Oct-2021	7.85%	94,224.00	91,788.64	186,012.64
01-Oct-2022	7.85%	101,620.00	84,392.05	186,012.05
01-Oct-2023	7.85%	109,597.00	76,414.88	186,011.88
01-Oct-2024	7.85%	118,201.00	67,811.52	186,012.52
01-Oct-2025	7.85%	127,480.00	58,532.74	186,012.74
01-Oct-2026	7.85%	137,487.00	48,525.56	186,012.56
01-Oct-2027	7.85%	148,280.00	37,732.83	186,012.83
01-Oct-2028	7.85%	159,920.00	26,092.85	186,012.85
01-Oct-2029	7.85%	172,473.00	13,539.13	186,012.13
		2,245,223.00	5,098,366.50	7,343,589.50

ASSIGNMENT

FOR VALUE RECEIVED the undersigned sells, assigns, and transfers unto

the within Bond and does hereby irrevocably constitute and appoint \_\_\_\_\_, Attorney to transfer the said Bond on the books kept for registration of the within Bond of the said Issuer with full power of substitution in the premises.

Dated: \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
In the presence of:

\_\_\_\_\_  
03/26/90  
SHINJ.W1  
81850/87001

(SPECIMEN BOND)

UNITED STATES OF AMERICA  
STATE OF WEST VIRGINIA  
CITY OF SHINNSTON  
SEWER REVENUE BOND, SERIES 1990 B

No. BR-1

\$104,777

KNOW ALL MEN BY THESE PRESENTS: That the CITY OF SHINNSTON, a municipal corporation and political subdivision of the State of West Virginia in Harrison County of said State (the "Issuer"), for value received, hereby promises to pay, solely from the special funds provided therefor, as hereinafter set forth, to the West Virginia Water Development Authority (the "Authority") or registered assigns the sum of ONE HUNDRED FOUR THOUSAND SEVEN HUNDRED SEVENTY-SEVEN DOLLARS (\$104,777), in annual installments on October 1 of each year as set forth on the "Schedule of Annual Debt Service" attached as Exhibit A hereto and incorporated herein by reference, without interest.

Principal installments of this Bond are payable in any coin or currency which, on the respective dates of payment of such installments, is legal tender for the payment of public and private debts under the laws of the United States of America, at the office of the West Virginia Municipal Bond Commission, Charleston, West Virginia (the "Paying Agent").

This Bond may be redeemed prior to its stated date of maturity in whole or in part, but only with the express written consent of the Authority, and upon the terms and conditions prescribed by, and otherwise in compliance with, the Supplemental Loan Agreement between the Issuer and the Authority, dated March 29, 1990.

This Bond is issued (i) to pay a portion of the costs of acquisition and construction of certain additions, betterments and improvements for the existing sewerage facilities of the Issuer (the "Project"); and (ii) to pay certain costs of issuance hereof and related costs. The existing sewerage system of the Issuer, the Project, and any further additions, betterments or improvements thereto is herein called the "System." This Bond is issued under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 16, Article 13 of the West Virginia Code of 1931, as amended (the "Act"), and an Ordinance duly enacted by the Issuer on March 26, 1990; and a Supplemental Resolution duly adopted by the Issuer on March 26, 1990

8

(collectively called the "Bond Legislation"), and is subject to all the terms and conditions thereof. The Bond Legislation provides for the issuance of additional bonds under certain conditions, and such bonds would be entitled to be paid and secured equally and ratably from and by the funds and revenues and other security provided for the Bonds under the Bond Legislation.

THIS BOND IS JUNIOR AND SUBORDINATE WITH RESPECT TO LIEN, PLEDGE AND SOURCES OF AND SECURITY FOR PAYMENT TO THE OUTSTANDING SEWER REVENUE BONDS, SERIES 1990 A, OF THE ISSUER, ISSUED CONCURRENTLY HERewith IN THE AGGREGATE PRINCIPAL AMOUNT OF \$2,245,223 AND DESCRIBED IN THE BOND LEGISLATION (THE "SERIES 1990 A BONDS").

This Bond is payable only from and secured by a pledge of the Net Revenues (as defined in the Bond Legislation) to be derived from the operation of the System after there has first been paid from said Net Revenues all payments then due and owing on account of the Series 1990 A Bonds, all moneys in the reserve account created under the Bond Legislation for the Bonds (the "Series 1990 B Bonds Reserve Account") and unexpended proceeds of the Bonds. Such Net Revenues shall be sufficient to pay the principal of and interest on all bonds which may be issued pursuant to the Act and which shall be set aside as a special fund hereby pledged for such purpose. This Bond does not constitute a corporate indebtedness of the Issuer within the meaning of any constitutional or statutory provisions or limitations, nor shall the Issuer be obligated to pay the same, except from said special fund provided from the Net Revenues, the moneys in the Series 1990 B Bonds Reserve Account and unexpended Bond proceeds. Pursuant to the Bond Legislation, the Issuer has covenanted and agreed to establish and maintain just and equitable rates and charges for the use of the System and the services rendered thereby, which shall be sufficient, together with other revenues of the System, to provide for the reasonable expenses of operation, repair and maintenance of the System, and to leave a balance each year equal to at least 115% of the maximum amount payable in any year for principal of and interest, if any, on the Bonds, the Series 1990 A Bonds and all other obligations secured by a lien on or payable from such revenues prior to or on a parity therewith, provided however, that so long as there exists in the Series 1990 B Bonds Reserve Account and the reserve account established for the Series 1990 A Bonds, respectively, amounts at least equal to the maximum amount of principal and interest, if any, which will become due on the Bonds and the Series 1990 A Bonds in the then current or any succeeding year, and any reserve account for any such prior or parity obligations is funded at least at the requirement therefor, such percentage may be reduced to 110%. The Issuer has entered into certain further covenants with the registered owners of

the Bonds for the terms of which reference is made to the Bond Legislation. Remedies provided the registered owners of the Bonds are exclusively as provided in the Bond Legislation, to which reference is here made for a detailed description thereof.

Subject to the registration requirements set forth herein, this Bond is transferable, as provided in the Bond Legislation, only upon the books of One Valley Bank, National Association, Charleston, West Virginia, as registrar (the "Registrar") by the registered owner, or by its attorney duly authorized in writing, upon the surrender of this Bond together with a written instrument of transfer satisfactory to the Bond Registrar duly executed by the registered owner or its attorney duly authorized in writing.

Subject to the registration requirements as set forth herein, this Bond, under the provision of the Act is, and has all the qualities and incidents of, a negotiable instrument under the Uniform Commercial Code of the State of West Virginia.

All money received from the sale of this Bond, after reimbursement and repayment of all amounts advanced for preliminary expenses as provided by law, shall be applied solely to the payment of the Costs of the Project described in the Bond Legislation, and there shall be and hereby is created and granted a lien upon such moneys, until so applied, in favor of the registered owners of the Bonds, which lien is subordinate to the lien in favor of the registered owners of the Series 1990 A Bonds.

IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all acts, conditions and things required to exist, happen and be performed precedent to and in the issuance of this Bond have existed, have happened, and have been performed in due time, form and manner as required by law, and that the amount of this Bond, together with all other obligations of the Issuer, does not exceed any limit prescribed by the Constitution or statutes of the State of West Virginia and that a sufficient amount of the revenues of the System has been pledged to and will be set aside into said special fund by the Issuer for the prompt payment of the principal of this Bond.

All provisions of the Bond Legislation, resolutions and statutes under which this Bond is issued shall be deemed to be a part of the contract evidenced by this Bond to the same extent as if written fully herein.

IN WITNESS WHEREOF, the CITY OF SHINNSTON has caused this Bond to be signed by its Mayor and its corporate seal to be hereunto affixed and attested by its Recorder, and has caused this Bond to be dated March 29, 1990.

[SEAL]

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
Recorder

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Series 1990 B Bonds described in the within-mentioned Bond Legislation and has been duly registered in the name of the registered owner set forth above, as of the date set forth below.

Date: \_\_\_\_\_

ONE VALLEY BANK, NATIONAL ASSOCIATION,  
as Registrar

By \_\_\_\_\_  
Its Authorized Officer

EXHIBIT A

Schedule of Annual Debt Service

City of Shinnston Debt Service Schedule Analysis of Borrowing from Series 1989 B Pool 39 Principal Payments Closing Date: 29-Mar-90	
Date	Interest Free Loan
01-Oct-90	
01-Oct-91	2,686.58
01-Oct-92	2,686.59
01-Oct-93	2,686.59
01-Oct-94	2,686.59
01-Oct-95	2,686.59
01-Oct-96	2,686.59
01-Oct-97	2,686.59
01-Oct-98	2,686.59
01-Oct-99	2,686.59
01-Oct-2000	2,686.59
01-Oct-2001	2,686.59
01-Oct-2002	2,686.59
01-Oct-2003	2,686.59
01-Oct-2004	2,686.59
01-Oct-2005	2,686.59
01-Oct-2006	2,686.59
01-Oct-2007	2,686.59
01-Oct-2008	2,686.59
01-Oct-2009	2,686.59
01-Oct-2010	2,686.59
01-Oct-2011	2,686.59
01-Oct-2012	2,686.59
01-Oct-2013	2,686.59
01-Oct-2014	2,686.59
01-Oct-2015	2,686.59
01-Oct-2016	2,686.59
01-Oct-2017	2,686.59
01-Oct-2018	2,686.59
01-Oct-2019	2,686.59
01-Oct-2020	2,686.59
01-Oct-2021	2,686.59
01-Oct-2022	2,686.59
01-Oct-2023	2,686.59
01-Oct-2024	2,686.59
01-Oct-2025	2,686.59
01-Oct-2026	2,686.59
01-Oct-2027	2,686.59
01-Oct-2028	2,686.59
01-Oct-2029	2,686.59
	104,777.00

ASSIGNMENT

FOR VALUE RECEIVED the undersigned sells, assigns, and transfers unto

the within Bond and does hereby irrevocably constitute and appoint \_\_\_\_\_, Attorney to transfer the said Bond on the books kept for registration of the within Bond of the said Issuer with full power of substitution in the premises.

Dated: \_\_\_\_\_, \_\_\_\_\_.

In the presence of:

\_\_\_\_\_  
03/26/90  
SHINJ.X1  
81850/87001